ROYAL COMMISSION

ON

PENSIONS AND RE-ESTABLISHMENT

SECOND INTERIM REPORT ON SECOND PART OF INVESTIGATION

May, 1924

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CONTENTS

PAGES

ADDRESS AND INTRODUCTION

SCOPE OF REFERENCE AND SUBDIVISIONS OF REPORT ..... 6—7

PART I

SUGGESTED AMENDMENTS TO PENSION ACT WITH INTERPRETATION OF VARIOUS SECTIONS 9—50

Introduction 9

Section 11 (1) (b)—Pre-enlistment disabilities not to be deducted from disability at discharge ..... 9—11

Recommendations (3) ..... 10—11

Section 12 (1)—Improper conduct—syphilitics ..... 11—13

Recommendation 13

Section 12 (2)—Compassionate pension or allowance in meritorious cases ..... 13—15

Recommendation 15

Section 13—Limitation of time for application ..... 16—17

Recommendation 17

Section 17—Pension suspended on imprisonment ..... 17—18

Recommendation 18

Section 23 (2)—Pension to child maintained by Member of Forces ..... 18—19

Recommendation 19

Section 23 (4)—Increase of childrens' pension to orphan rates ..... 19—20

Recommendation 20

Section 23 (5)—Pension to dependents of pensioners in receipt of 80 per cent pension or over who die from other causes within five years after discharge or commencement of pension ..... 20—22

Recommendation 22

Section 31 (3)—Payments to ex-soldier who is maintaining parents ..... 22—23

Recommendation 23

Section 33 (1)—Refusal of pension to widow in cases where the marriage was after the appearance of the injury or disease resulting in death ..... 23—31

Recommendation 31

Section 33 (2) Pension to dependents of pensioners in receipt of 80 per cent. pension or over, who die from other causes within five years after discharge or commencement of pension 31

Recommendation 31

Section 33 (2)—Widows of Disability pensioners—death not connected with service—continuing pension ..... 31—32

Recommendation 32

Section 34 (1),

Section 34 (3),

Section 34 (4),

Section 34 (5),

Section 34 (7)—Pensions to widowed mothers prospectively dependent—deductions for earnings and income ..... 32—35

Recommendation 35

Section 34(1),

PART I—*Concluded*

SUGGESTED AMENDMENTS TO PENSIONS ACT, ETC.—*Concluded*— PAGES

Section 34 (3)—Widowed mothers pension to be granted as of right ..... 35—36
Recommendation 36
Section 38—Time for payment of pensions for deaths ..... 36—37
Recommendation 37
Section 41—Allowances to widowed mothers and widows on re-marriage ..... 37—39
Recommendation 39
Lump Sum Final Cash Payments ..... 39—43
General considerations ..... 39—40
Re-open all cases 40
Recommendation 40
Do away for the future 40
Recommendation 41
Re-open where error in estimating ..... 41—42
Recommendation 42
Gradual deduction in refunding 42
Recommendation 42
Pension not to be discontinued where pensioner declines commutation ..... 42—43
Recommendation 43
Pension Ratings—Schedule "A"—Pension rates to be based on pre-war occupation 43—44
Recommendation 44
Pensions—Schedule "A" and "B"—Pooling childrens' pensions 44
Recommendation 45
Bonus—Schedule "A" and "B"—To be made permanent 45
Recommendation 45
Table of Disabilities—To be revised ..... 45—48
Recommendation 48
Pensions for Tuberculous—To be 100 per cent for extended period ..... 48—49
Recommendation 49
Federal Appeal Board—Jurisdiction ..... 49—50

PART II

SOLDIER SETTLERS ..... 51—77
Introduction 51
Appeal or Adjustment Boards ..... 51—54
Recommendation 54
Collateral Security ..... 54—55
Recommendation 55
Right of Settler to be repaid portion of his investment in case of salvage 55
Recommendation 55
Terms on which settler is given permission to sell property ..... 55—56
Recommendation 56
Re-valuation ..... 56—60
Extension of the Act to cover those who served in Canada only ..... 60—61
Recommendation 61
Vendor's warranty of fitness of land 61
Recommendation 61
Extension of Age Limit 61
Recommendation 61

SESSIONAL PAPER No. 203

PART II—*concluded*

SOLDIER SETTLERS—*Concluded*— PAGES

Payment of Taxes 62
Recommendation 62
Postponement of standard date of payment ..... 62—63
Recommendation 63
Allowances for clearing on Dominion Lands 63
Recommendation 63
Drainage Loans ..... 63—64
Recommendation 64
Transfer of settlers from unsuitable lands 64
Recommendation 64
Provincial Settlers at Merville and Lister Camp (Creston), B.C. ..... 64—68
Recommendation 68
Settlers on Nicoamen Island, B.C. 68
Recommendation 68
Local Fire Insurance Companies ..... 68—69
Recommendation 69
Assistance to Cattle Industry 69
Recommendation 69
Small holdings for reasonably fit men ..... 69—72
Recommendation 72
Small holdings for seriously disabled men ..... 72—73
Recommendation 73
Service to count whether entry is before or after date of enlistment (Dominion Lands) ..... 73—74
Recommendation 74
Refund to ex-service men of fees paid on pre-emption (Dominion Lands) ..... 74—75
Recommendation 75
Military service to count on soldier grant (Dominion Lands) ..... 75—76
Recommendation 76
Field Supervisors to receive proof of duties (Dominion Lands) 76
Recommendation 76
Time in hospital to count as residence (Dominion Lands) ..... 76—77
Recommendation 77
Definite price fixed for reservations (Dominion Lands) 77
Recommendation 77
Reservation *re* Tuberculosis Pensions 77

TO HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

MAY IT PLEASE YOUR EXCELLENCY:

We, the Commissioners, appointed by Royal Commission dated July 22, 1922, issued pursuant to Order in Council P.C. 1525 of the same date, to investigate, inquire into, and report upon:—

Firstly, the matters referred to in complaints made by certain officials of the Great War Veterans Association as contained in a certain telegram; and

Secondly, certain questions relating to pension, medical treatment and re-establishment needs of Canadian ex-service men and their dependents;

have the honour to present to Your Excellency in Council our Second Interim Report in respect of the Second Part of such Investigation, (being report No. 3 of the Commission.)

The subject matter of the reference concerning the Second Part of such Investigation is as follows:—

1. To consider and make suggestions in respect of the procedure by which disabled ex-members of the Canadian Expeditionary Force are enabled to make application for pensions and medical treatment, or submit an appeal in respect of decisions thereon.

2. To recommend means for ensuring that suitable provision is made for those ex-members of the forces and dependents who are under serious handicaps by reason of war services, in conformity with the recommendations now made, and for whom definite legislative provision has not yet been made.

For the above purposes the Commission shall:—

1. Survey existing re-establishment needs among Canadian ex-service men and dependents.

2. Investigate available data in respect of phases of the Parliamentary inquiry as yet incomplete.

3. Obtain information as regards suitable provision for those classes of ex-service men described in Section 7, Chapter 2, of the Committee's report.

4. Investigate the question of Canteen Funds.

In the Second Report presented by the Commission it was indicated that instead of delaying all matters until a complete Final Report could be presented it was considered best to forward Interim Reports from time to time treating the various subjects in the order of those considered urgent. The Commission has made every effort to complete the whole reference to avoid further Interim Reports, but it has been found impossible to do so, without involving a delay of probably one month. This Second Interim Report on the Second Part of the Investigation is therefore forwarded, in view of the fact that the matters therein referred to are particularly subjects for legislation.

The subjects dealt with in this Report are:—

Part One: Re Amendments to Pension Act and Interpretation of various Sections.

Part Two: Re Soldier Settlers.

The Final Report which will, it is expected, be presented within one month, will deal with such evidence presented and suggestions made under the following headings: Procedure, Sheltered Employment (including Vet Craft Workshops, Selected Industrial Employment and Home Industries), Vocational Training, Soldiers' Homes, Relief, Matters presented *re* Disabilities from certain classes

of ailments (including Mental, Blind, Tuberculous, Amputations, Syphilitic, Premature Old Age) Canadian ex-service men now residing in the United States. Matters referred to generally as Existing Re-Establishment Needs, Canteen Funds, and Matters mentioned on the Hearings but not within the scope of the Inquiry, such as Imperials, R.N.W.M.P., and Burials.

In this Report the Board of Pension Commissioners has been referred to as the "Pensions Board," the Soldier Settlement Board is spoken of as the "Settlement Board", and the Royal Commission, now reporting is designated "The Commission". In giving references to the pages of the record of evidence, duplication has been avoided, where possible, by not repeating the name of the place where the Sitting was held. Where, therefore, a reference to evidence consists of simply a number shown in brackets, it refers to the evidence given at the place next previously mentioned by name.

A copy of the evidence taken on the various Sittings of the Commission at Halifax, St. John, Montreal, Vancouver, Calgary, Regina, Winnipeg, Toronto, and Ottawa, consisting in all of 5,800 pages is forwarded herewith. Some 210 exhibits referred to but not incorporated in the evidence will be forwarded with the Final Report.

ROYAL COMMISSION ON PENSIONS AND RE-ESTABLISHMENT

SECOND INTERIM REPORT

ON

SECOND PART OF INVESTIGATION

PART ONE

AMENDMENTS TO PENSION ACT AND INTERPRETATION OF VARIOUS SECTIONS

There were presented to the Commission suggestions as to amendments to the Pension Act referring to upwards of twenty different subjects. The Commission has considered these as coming within Paragraph 2 of the reference (P.C. 1525) under which the Commission is authorized to recommend means for ensuring that suitable provision is made for handicapped ex-service men and their dependents, and for whom definite legislative provision has not yet been made. The Commission has dealt with these suggestions by treating together those which, though made at different hearings, closely resemble each other. There are suggestions which, although not recommended favourably, were thought important enough to warrant being discussed at some length in this Report, so that the considerations which influenced the Commission might be understood and the way be open for further presentation of these suggestions to Parliament, in case the reasons adopted by the Commission were thought insufficient. The suggestions are dealt with in the order in which the Sections affected appear in the Act.

Re Section 11 (1) (b) (formerly 25 (3)

Pre-enlistment disabilities not to be deducted from disability at discharge

This was formerly Section 25 (3). It was amended (1923, Chap. 62, Section 3) and became clause (b) of sub-section (1) of Section 11 of the Pension Act. It now reads as follows:—

> "No deduction shall be made from the degree of actual disability of any member of the Forces who has served in a theatre of actual war on account of any disability or disabling condition which existed in him at the time at which he became a member of the forces; provided that no pension shall be paid for a disability or disabling condition which at such time was wilfully concealed, was obvious, was not of a nature to cause rejection from service, or was a congenital defect."

The United States provision (Sec. 300 War Risk Insurance Act) is that a member of the forces—

> "shall be . . . taken to have been in sound condition when . . . enrolled for service, except as to defects, disorders, or infirmities."

recorded at the inception of active service and then only to the extent so recorded.

Suggestion by ex-service men re Section 11 (1) (b)

That this provision be extended to ex-service men who served in England or Canada. (Halifax 88; Toronto 188.)

The spirit of Section 25 (3) was that all those who reached a theatre of actual war should be presumed to have been physically fit on enlistment, and the Pensions Board could not minimize the degree of disability existing at discharge by showing that part of such disability existed on enlistment. (See Report No. 1, 56, 57.)

This Section is admittedly a generous one, and the Commission considers its further extention not warranted.

Recommendation of Commission.

None.

Suggestion by ex-service men re Section 11 (1) (b)

That steps be taken to insure that so long as some disability remains pension is not discontinued to men who have served in a theatre of war, on the ground that aggravation incurred on service has disappeared. (Halifax 83; Winnipeg 57-63; Toronto 631.)

This has been discussed exhaustively in Report No. 1, P. 70-73. The final word on the subject is contained in an Instruction issued by the Chief Medical Adviser of the Pensions Board stating specifically that the "*whole disability* must have disappeared before pension ceases."

The cases cited in Winnipeg (57 and 61) convince the Commission that notwithstanding all the discussion which has been had and the corrective instructions which have been issued, there is still lacking a clear and definite understanding that the terms of the Instruction above quoted mean what they say.

Recommendation of Commission.

That necessary steps be taken to ensure that the interpretation and practice indicated in the Instruction above quoted is invariably followed.

Suggestion by ex-service men re Section 11 (1) (b)

That all the exceptions in Section 11 (1) (b) (formerly Section 25 (3)) be struck out. (Toronto 188.)

These exceptions apply to cases in which the disability was: (a) wilfully concealed, (b) obvious, (c) not of a nature to cause rejection from service, (d) congenital.

The Commission is of opinion that these exceptions are not at all unreasonable nor strict in their intent.

The complaint has arisen, almost invariably, in reference to the interpretation of the word " obvious " as applied to certain cases. This was dealt with in Report No. 1 (P. 73, 75). The word has now been defined in the 1923 amendment to the Pension Act (C. 62, S. 1) as follows:—

" ' obvious ' means that which would be apparent, clear, plain, evident or manifest to the eye, ear or mind of an unskilled observer on examination."

The phrase excepting disabilities " not of a nature to cause rejection from Service " is taken as referring to ailments or defects so trivial in nature as not to justify rejection from service. The reason for urging the elimination of this exception is simply that its meaning is obscure and therefore causes apprehension. The Commission has had no case brought to its attention in which this provision was ever invoked as a ground for refusing pension. Assuming it means what is suggested above, it is at least innocuous and was evidently considered desirable in order to obviate any possible doubt.

The Commission considers that there is no good reason for eliminating the other exceptions, viz., disabilities which were " wilfully concealed " or " congenital."

Recommendation of Commission.

None.

Re Section 12 (1)

Improper Conduct Syphilities

"Section 12 (1).—A pension shall not be awarded when the death or disability of the member of the forces was due to improper conduct as herein defined; provided that the Commission may, when the applicant is in a dependent condition, award such pension as it deems fit in the circumstances and provided also that the provision of this section shall not apply when the death of the member of the forces concerned has occurred on service prior to the coming into force of the Pension Act."

The law and practice in awarding pension where syphilis has been a contributing factor to the disability has been complained of. It is claimed:—

(1) That the Pensions Board is in error in treating syphilis which originated previous to enlistment, as due to "improper conduct," which in turn is defined as including "vicious or criminal conduct."

(2) That even if this construction is correct, then the Statute should be amended, so that if the origin of the infection is prior to enlistment then the right to pension should be the same as in the case of any other pre-enlistment disease.

(3) The other claim is that even if syphilis comes under the ban of the Act, the Pensions Board is too strict in the exercise of its discretionary power to pay pension to applicants in a dependent condition.

Previous to the coming into force of the Pension Act, it would appear that in awarding pension, no distinction was made between disabilities resulting from syphilis and those from any other disease (Vancouver 113). The evidence shows that the Pensions Board considers that the Pension Act changed the rule so as to prohibit pensions for disabilities arising from syphilis. The section relied on is Section 12, which is quoted in full above.

> "Improper conduct" is defined in Section 2, subsection (h) and it
> "includes wilful disobedience of orders, self-inflicted wounding and vicious or criminal conduct."

As to the first complaint the Commission considers that the terms of the Section are broad enough to preclude even cases where the infection took place previous to enlistment.

As to the second complaint the Commission appreciates the force of the fact that this provision has been in the Act since its inception. The memorandum issued at the time the Act was passed contained no intimation that it effected a change in the law, which up to that time had made no distinction between this disease and any other which originated while the man was in civilian life. The regulation of the Pensions Board which is now in force concerning the practice under this Section shows that what was in mind was that the Section applied at least primarily to misconduct on service. The first two paragraphs of this regulation are:

> "Disability due to Misconduct
>
> "1. Section 12 of the Act provides that pension shall not be awarded when the disability of a member of the forces is due to improper conduct.
>
> "2. No pension, therefore, either for the disability or aggravation thereof can be paid when the disability or aggravation thereof is due to misconduct on service. (Vancouver 114)."

This of course does not exclude the interpretation that the section applies also to pre-enlistment infection and later, in the same regulation, is a provision which shows that the Pensions Board considered that it did so apply because the Pensions Board treats disabilities which were due to "misconduct which pre-existed enlistment" as only pensionable under the discretionary clause of the section. The subject is naturally one which has not received much public discussion, and claimants, especially dependents, may often hesitate to press their claims through dread of disgrace. Those who are affected are no less entitled to have an expression of the opinion of the Commission. The effect of the section as construed is that the State indirectly, but no less effectively, fines not only the ex-soldier but his dependents for an indiscretion which occurred before he took on any duty whatever as a soldier. For example: The man who had T.B. on enlistment, but who was accepted and served in France gets pension for his condition on discharge, and this pension increases as his disability grows worse, and if he dies his dependents of course get pension. On the other hand, the man who as a result of an indiscretion in his youth, has, on enlistment, the smouldering embers of V.D.S. but nevertheless is accepted and, like the other man, performs the duties and takes the risk of a fit man, and whose latent trouble would be just as much or more affected by service in the line as the T.B. man, gets no pension for any increase after discharge. What is even more striking is that his widow gets no pension as of right but only if she is in a dependent condition, and then it is entirely in the discretion of the Pensions Board to grant her such pension as it "deems fit." There is one exceptional case where she gets pension as of right, and that is if the husband dies within five years after discharge while pensioned for eighty per cent or over. In that case Section 33 (2) which applies to all pensioners drawing pension to that amount, authorizes pension to the widow, no matter what is the cause of his death.

The example given illustrates the discrimination which the Act makes between these two soldiers. The country availed itself of the services of both of them and put them to all duties and dangers of fit men. They both may have given flawless service and this service probably had a more serious effect on the health of the "immoral" man than on that of the other, but the State rids itself of its responsibility to him and his dependents because of his ancient indiscretion. The answer must be that the ailment of the V.D. man was voluntary while that of the T.B. man was not, but it appears like an attempt to mete out ex post facto punishment. The subject was considerably discussed before the 1920 Parliamentary Committee (Proceedings page 212) but this discussion had more reference to the case when the infection was contracted on service. This case is of course different in that the man was in uniform and subject to stringent prohibitory regulations.

It may also be said that the provisions of Section 11 (1) (b) (formerly 25 (3)) which, in effect, authorize pension for pre-enlistment disability, are generous and that a case of this kind should not have the same consideration. But that section was drawn on the principle that if, on enlistment, a man was taken on as "fit" for service purposes, he was entitled to be considered as "fit" for pension purposes and if this is the true principle it applies to the V.D.S. man.

The rigors of the section were mitigated somewhat by the last proviso which was added in 1921.

As to the third complaint, which is as to the policy laid down by the Pensions Board in exercising its discretion to award pension, the following are the regulations (in addition to those already quoted):—

> "3. However, Section 12 provides that when the applicant is in a dependent condition the Board may award such pension as it "deems fit" in the circumstances."

"4. The Board considers that a fit and proper pension in the cases of those who saw service in a theatre of actual war and whose disabilities were due to misconduct which pre-existed enlistment would be the total disability at the time of discharge without any deduction for the pre-existing condition, provided that it "was not obvious nor wilfully concealed." No increase in the disability after discharge will be pensionable. In the cases of those who did not see service in a theatre of actual war, pension can be only awarded for that portion of the disability actually aggravated by service." (Vancouver 114).

Assuming the statute deprives the man, with the pre-enlistment infection, of his right, the Commission considers that no criticism can be made of the policy laid down in the above regulations.

There is nothing however in these regulations showing what is done in the case of a man, who is infected on service and who is in a dependent condition. According to the evidence before the 1920 Parliamentary Committee (page 214) this man does not get pension at all and, neither do his dependents.

The Commission considers that there must be cases where the plenary authority given to the Pensions Board by Parliament should be used. It will not do to say that Section 12 prohibits pension for misconduct on service, because that only refers to pensions as of right. The discretionary power then comes into operation and the qualification for pension is dependency. When that qualification is present the power should, in the opinion of the Commission, be exercised.

An argument always made for the man whose misconduct occurred during service is that it was really service conditions which contributed largely to his downfall, and that, while his strict right to pension is gone, he should not be left in want particularly if his service has been good.

Recommendation of Commission.

1. That Section 12 (1) be amended so that the prohibition there imposed shall only apply to improper conduct after enlistment; and
2. That the discretion to award pensions should be exercised in case of dependency, even where the misconduct was on service.

Re Section 12 (2)

Compassionate Pension or Allowance

"Section 12 (1).—A pension shall not be awarded when the death or disability of the member of the forces was due to improper conduct as herein defined; provided that the Commission may, when the applicant is in a dependent condition, award such pension as it deems fit in the circumstances and provided also that the provisions of this section shall not apply when the death of the member of the forces concerned has occurred on service prior to the coming into force of the Pensions Act."

"Section 12 (2).—Any individual case which, in the opinion of the majority of the members of the Pension Board and the Appeal Board acting jointly, appears to be especially meritorious and for which in said opinion no provision has been made in this Act, because such case did not form part of any class of case, may be made the subject of an investigation and adjudication by way of compassionate pension or allowance irrespective of any schedule to this Act".

Subsection 2 was enacted in 1923. It is believed that the purpose in mind was to permit of consideration of cases of special merit and hardship on joint deliberation by the Federal Appeal Board and the Pensions Board. (See Report of Special Committee of the Senate 1923, p. 6). The Commission is advised that, after a close study of the subsection, the members of both these bodies

consider that under the provision as framed, no cases can be dealt with by them. Following is an extract from an official memorandum forwarded to the Commission by the Chairman of the Federal Appeal Board:—

"The members of the Pension Board and the Appeal Board have met on two occasions for the purpose of considering cases which might be deemed to come properly before them on the terms of the sub-section. They were prepared to give such fair, large and liberal consideration and interpretation as would best insure the attainment of the object of the subsection according to its true intent, meaning and spirit. The marginal note appended to subsection 2 in Chapter 62, 13-14 George V reads: 'Compassionate pension or allowance.' The view was considered that the section might be held to apply to cases where no provision had been made either for or against, and in which cases, in the opinion of the joint board the conditions were such as to warrant a pension being granted because of such exceptional circumstances. Closer reading of the Act forced the members of the Joint Board to the conclusion that the compassionate pension or allowance could be made only in cases where pension had been refused because the death or disability of the member of the forces was due to improper conduct. It was afterwards decided that even under that restricted interpretation of the enactment, no action would be possible by the Joint Board on account of the words used in the enactment 'because such case did not form part of any class of case.' Provision is made in the first part of the Section for cases arising out of improper conduct, consequently they do not form part of the class of case for which no provision has been made in the Pension Act. The words quoted also exclude the interpretation that the discretion vested in the Pension Board is to be exercised by the members of the Pension Board and of the Appeal Board sitting jointly.

"If it were the intention of Parliament that the Joint Board should deal with cases worthy of consideration, of exceptional hardship and for which no provision had been made in the Act, then an independent section of the Act should vest in the Joint Board authority for dealing with such cases.

"If on the other hand, it is the intention of Parliament that only cases arising out of improper conduct are to be considered by the Joint Board, the language of the sub-section should be amended to show to what extent the discretion now vested in the Pensions Board is to be exercised by the Joint Board, and the words of the sub-section 'for which no provision has been made in this Act because such case did not form part of any class of case' might well be struck out.

"Your Committee is therefore of the opinion that the Joint Board cannot consider any cases under the language of Section 12.

"Your Committee does not recommend that any representations be made to Parliament by the Federal Appeal Board or Board of Pension Commissioners for Canada. It does recommend however, that the Chairman of the Federal Appeal Board and the Chairman of the Board of Pension Commissioners for Canada submit this report to the Ralston Commission for the information of the Commission and for such action as it may deem advisable.

"This report will be submitted separately to the Federal Appeal Board and to the Board of Pension Commissioners."

(Sgd.) JOHN THOMPSON,
C. B. REILLY.

In Great Britain provision is made for deserving cases by means of a Royal Warrant of 1884, whereby the Secretary of State with the concurrence of the Treasury Board is given discretion to make payments in exceptional cases. This power is used after what is regarded as a deserving case has been refused by the Pensions Ministry and by the Appeal Tribunal.

The provisions of this Warrant (referred to in the evidence as the "dispensing warrant"—Toronto, 118, 129) are:—

Pensions 73-a.

"APPENDIX E (1)

"COPY OF DISPENSING WARRANT 27TH OF OCTOBER, 1884

"(Clause 225 of Army Circulars 1884)

"ROYAL WARRANT
VICTORIA R. *Issue of Pay, Non-effective Pay and Allowances*

"Whereas it has been represented to us that it is expedient to make further provisions in respect of the issue of Pay, Non-effective pay and allowances of Our Army and its department.

'Our Will and Pleasure is that it shall be competent for Our Secretary of State, with the concurrence of the Lords Commissioners of Our Treasury, to grant, in exceptional cases, Pay, Non-effective Pay and other Emoluments or Allowances, at rates or to persons other than those mentioned or under conditions other than are laid down in any of Our Warrants or Regulations

"Provided Always that a list of such of the grants thus approved as the Lords Commissioners of Our Treasury may direct, and a statement of the grounds on which they have been made, shall be annually laid before Parliament.

"It is Our Further Will and Pleasure that our Warrant of the 17th August, 1881, be cancelled.

"Given at Our Court at Balmoral, this 27th day of October, 1884, in the 48th year of Our Regin.

"By Her Majesty's Command.

HARTINGTON."

Nothing was indicated in the evidence to show what would be regarded as a case to be dealt with under this unusual authority. All that was said was that recommendation would be made to the Treasury that this power be exercised "if it was a deserving case" (Toronto 112) and that the person to be benefited must be in a "needy circumstance" (114).

The Commission has frequently commented on the difficulty in administering an Act of Parliament hemmed in by well known principles of legal interpretation, and at the same time making allowance for special meritorious cases which the country would consider come within the spirit if not the letter of the provision which was intended to be made for ex-service men and their dependents.

Recommendation of Commission re Section 12 (2)

That any provision deemed necessary for permitting the grant of a compassionate pension or allowance in an individual case of exceptional merit and hardship be made by way of an entirely independent and substantive section, the constitution of the body empowered to make such grant to be as in Section 12 (2). The maximum amount of such grant to be fixed and the necessary procedure to be laid down.

Re Section 13

Limitation of time for Application

"Section 13.—A pension shall not be awarded unless an application therefor has been made within three years, (a) after the date of the death in respect of which pension is claimed; or (b) after the date upon which the applicant has fallen into a dependent condition; or (c) after the date upon which the applicant was retired or discharged from the forces . . . : or (d) after the declaration of peace. Provided that the provision of sub-section (d) as above shall not apply to an applicant claiming dependent's pension who was not resident in Canada at the date of the soldier's death and has not continuously resided therein."

Suggestion by Ex-Service Men

> To eliminate this section and permit applications so long as it can be shown that the disability is connected with service or, in the alternative, to extend the time prescribed. (Vancouver, 497; Regina 61; Winnipeg 195.)

The obvious argument is that a man with a disability which he can clearly show as connected with service should not be told "you applied too late." The answer is that medical opinion should be able to specify some period of time within which it can be assumed with reasonable certainty that all disabilities which could have any reasonable likelihood of being connected with service must have shown themselves. Certainty is desirable not only for the Country but for the man. To leave the door open to a claim that a disability is connected with service which does not manifest itself until six, seven or ten years after discharge, is to invite attempts to abuse the Statute in order to provide for a possible case which medical opinion agrees would be most isolated and rare.

In Great Britain there is no limitation of time for application. In the United States it is required that the death or disability should occur within one year after discharge, or that a certificate be obtained from the Director to the effect that the soldier was at the time of discharge suffering from injury likely to result in death or disability, and the time within which such certificate must be obtained is limited to one year after the passing of the Legislation.

It was repeatedly stated on the hearing that if there was an entry on the man's medical documents referring to the injury or disease which later is claimed to be causing a disability, that would be regarded as an application. (Regina 62; Winnipeg 115; Calgary 119.) The adherence to this practice should take care of practically every meritorious case. The limitation period which will apply most generally is the period ending September 1st, 1924, three years after the declaration of peace. (See Section 13 (d) and if the injury or disease has not shown itself in that long period sufficiently at least to cause the applicant to apply to some Unit of the D.S.C.R. for treatment, it hardly seems to be within the bounds of possibility that any manifestation afterwards should reasonably be regarded as having been present continuously from the time of discharge. If there is such a case, the Commission considers that it is one which would fairly come within the spirit of the remedial section passed in 1923, Chap. 62, Sect. 4., to be dealt with by the Pensions Board and the Appeal Board jointly, or it might even be made the subject of a special item in the estimates.

The practice of treating an entry on the documents as an application is sufficiently important to warrant its inclusion in the Statute.

Recommendation of Commission.

> That Section 13 be amended to provide that where there is an entry on the service or medical documents of the ex-service men by, or in respect of, whom pension is being claimed, showing the death, or the existence

of an injury or disease which has contributed to the disability or death, in respect of which pension is claimed, such entry shall be considered an application as of the date thereof for pension in respect of such disability or death.

Re Section 17

Pensions Suspended on Imprisonment

"Section 17.—When a pensioner has been sentenced to imprisonment for a period of six months or more the payment of his pension shall be discontinued and no pension shall be paid to him for or in respect of the period of his imprisonment; provided, however, that the Commission shall have discretion to pay the pension or part of it to any person who was being or was entitled to be supported by the pensioner at the time of his arrest. Upon the pensioner's release from imprisonment payment of his pension shall be reconsidered as from the date of his release and in accordance with the extent of his disability then shown to exist, or in the case of a pensioner pensioned on account of the death of a member of the forces in accordance with the rates set out in Schedule B of this Act."

Suggestion by ex-service men

That provision be made whereby the pensions Board may pay the whole or part of a prisoner's pension to him when considered to be for his benefit. (Montreal 469; Calgary 88; Toronto 602, 928.)

The type case cited in Montreal (467) appeared to be of unusual hardship. A non-commissioned officer who lost his leg on service was on pension of $45 a month. It was alleged that he was the subject of a "framed-up" prosecution arising out of a brawl in which he had unfortunately become involved. He was convicted of house-breaking and sentenced to ten years on the evidence of the agent of a bawdy house who had been the cause of the soldier's undoing, and was himself sentenced to seven years in penitentiary. The man, it was stated, was helpless, and had no funds with which to take any proceedings to have his case re-considered, his pension having automatically stopped as soon as sentence was pronounced. There was nothing against his character previously.

The contention was that a pension was a payment as of right and should not be discontinued on account of collateral circumstances having nothing to do with the man's service out of which the right to pension arose. It was claimed that otherwise the country would benefit by a man's misdeeds in a case where the pension which was discontinued was greater than the cost of his keep in prison. The ground on which pension is discontinued is apparently that pension is to compensate for loss of earning power, and if the man by reason of wrongdoing has to be incarcerated and therefore has no earning power, pension is not payable. This reasoning does not always hold true, however, for example, a pensioner who becomes ill from some other disability than that for which he is pensioned loses his earning power, but his pension still goes on.

The theory of pensions was set out in a Memorandum prepared for the purpose of stating the principles on which the Pension Act had been drafted.

This Memorandum concludes:—

"The pension payable to a soldier or sailor or to his legal wife and legitimate children is to be awarded because the soldier or sailor has *earned the payment of a debt* to his wife and children, and this pension will not be reduced or discontinued because these persons are, or have become, self-supporting."

On this basis, pension would be payable whether the soldier were in or out of prison, so long as the disability remained.

It is claimed that to cut off an ex-service man's pension because he commits a crime is to impose on him a punishment additional to that imposed on other members of the community for a like offence. While this is the result, it is only incidental. Although pension may, in one sense, be the payment of a debt, it is a debt arising out of an agreement to indemnify against pecuniary loss. The pensioner who is ill from a disability unconnected with service could, on the strict theory of indemnity, be denied pension during such illness, but because his incapacity is involuntary it is overlooked and pension is paid. The man, however, who has voluntarily and wilfully deprived himself of his earning capacity by committing crime is not in the same position to claim generosity and have his self-imposed incapacity disregarded.

> Section 17 gives the Pensions Board discretion to pay the pension to—
> "any person who was being or was entitled to be supported by the pensioner at the time of his arrest."

This provision is not conditional on the person to whom the payment may be made being in need. It is however for the benefit of the dependent and not of the ex-service man himself. In Great Britain, in the case of a married pensioner his pension is stopped, but payment is made automatically to the wife, of one-half the stopped pension, in addition to her regular pension. If the prisoner is unmarried his pension is stopped, and one-third of it may, on application, be paid to a pre-war dependent. Any portion of the stopped pension not so paid to the wife or dependents is entirely forfeited. (Ministry of Pensions Manual, July 1, 1923, Part IX, Section 9401, 9403.) In the United States, if a man is drawing compensation and is sent to jail, his compensation does not stop. It is paid to him while he is incarcerated, unless his disability is shown to have decreased by medical examination or unless it is impossible to examine him, in which latter case compensation is discontinued. (Letter to D.S.C.R. from Asst. Director, U. S. Veterans Bureau, May 3rd, 1923.)

There are circumstances under which it would be to the substantial and genuine benefit of a man who is a prisoner to have some part of the pension made available, and the Commission considers that the Pensions Board should have discretion in these cases.

Recommendation of Commission

> That Section 17 be amended to provide that where in the opinion of the Pensions Board it appears that it is of exceptional benefit or advantage to the pensioner, the Board may in its discretion pay the pension or part thereof to or for the pensioner himself.

Re Section 23 (2)

Pension to Child Maintained by Member of Forces

"Section 23 (2).—No pension shall be paid to or in respect of a child unless such child was acknowledged and maintained by a member of the Forces in respect of whom a pension is claimed at the time of the appearance of the injury or disease which caused the disability for which he is pensioned or which resulted in his death; provided, however, that a legitimate child born subsequent to the appearance of the injury or disease shall be entitled to a pension. Provided also that the Commission may, in its discretion, award a pension to or in respect of any child entitled in the opinion of the Commission to be maintained by the member of the Forces in respect of whom pension is claimed."

Suggestion by Ex-Service Men re Section 23 (2)

That pension be payable to a child of a deceased soldier if any part of its maintenance was being provided by the soldier at the time of the appearance of the injury or disease which resulted in the death. (P.E.I.-St. John 80.)

In the type case cited, the child was, at the time her soldier father's illness appeared, living with her uncle. Her father was at most only supplying her with clothing and boots. The Pensions Board discontinued her pension on the ground that she was not being "maintained" by her father at the time of the appearance of the injury or disease. (P.E.I.-St. John 78.) The suggestion made at the Hearing was that children of a soldier whose death is connected with service should be entitled to pension whether they had been maintained by him or not. (P.E.I.-St. John 78-79.) It was pointed out that the latter part of Section 23 (2) gives the Pensions Board discretion to award pension to children "entitled to be maintained" by the soldier. The case cited could have been dealt with under this discretionary clause, or it might have been ruled that the child had been "maintained" by the parent even though not *wholly* maintained by him. The evidence is that in practice it is not required to be shown that the child has been wholly maintained by the father, but that there are—

"many cases in which a pension has been awarded where there has been a very small contribution to the child's maintainance." (St. John 80.)

An examination of the type case shows that the Pensions Board considered that the contributions by the father were only casual and not as part of any regular system of maintenance, and that it was further considered that the case was not one which warranted the exercise of discretionary power to award pension when the child was "entitled to be maintained" by the father.

Recommendation of Commission

None—on the assumption that "maintained" is construed in practice to mean "maintained to a substantial extent," and that the discretion is freely exercised in cases where the child was "entitled to be maintained."

Re Section 23 (4)

Increase of Children's Pension to Orphan rate

"Section 23 (4).—When a child has been given in adoption or has been removed from the person caring for it, by a competent authority, and placed in a suitable foster home, or is not being maintained by and does not form part of the family cared for by the member of the forces or the person who is pensioned as the widow, divorced wife, or parent of the member of the forces, or by the woman awarded a persion under subsection three of section thirty-three of this Act, the pension for such child may, in accordance with the circumstances, and in the discretion of the Commission, be continued or discontinued or retained for such child for such period as the Commission may determine, or increased up to an amount not exceeding the rate payable for orphan children. Any such award shall be subject to review at any time."

Suggestion by ex-service men re Section 23 (4)

That on the re-marriage of the widow, pension to children should be automatically increased to full orphan rates. (Regina 19; Winnipeg 797.)

The contention was that the State had substantially benefited by the re-marriage of the widow in that payment of future pension beyond the one year's bonus was saved, and that the children in the home of a step-father would not be in quite as favourable position as if their soldier father were living. (Winnipeg 798.)

It was stated that the Pensions Board had power under Section 23 (4) to award pension at orphan rates on the re-marriage of the mother and that it had been done in many cases. (Winnipeg 798; Toronto 669.)

If this power is contained in the Section it must be by reason of the provision that, when the child "is not being maintained by" the widow, then the rate may be increased to orphan rates. The widow having re-married a man who is unable to support the children would, it is supposed, be regarded as not "maintaining" them. The Section is none too clear in this respect, but in view of the interpretation which is put on it by the Pensions Board, as indicated in the above reference, it is considered that no amendment is called for.

If provision were made for the automatic increase of the children's pension to orphan rates in all cases of re-marriage of the widow, it would be a direct discrimination against children whose mother saw fit to remain a widow, and it would be an additional attraction for mercenary suitors.

Recommendation of Commission

None.

Re Section 23 (5) and 33 (2)

Pension to dependents of pensioners in receipt of 80% pension or over, who die from other causes within five years after discharge or commencement of pension.

"Section 23 (5).—The children of a pensioner who was pensioned in any of Classes 1 to 5 mentioned in Schedule "A" and who has died, shall be entitled to a pension as if he had died on service, whether his death was attributable to his service or not, provided that the death occurs within five years after the date of the commencement of pension."

"Section 33 (2)—Subject to paragraph one of this Section, the widow of a pensioner who, previous to his death, was pensioned for disability in any of the Classes 1 to 5 mentioned in Schedule "A" shall be entitled to a pension as if he had died on service whether his death was attributable to his service or not, provided that the death occurs within five years after the date of retirement or discharge or the date of commencement of pension."

Suggestion by Ex-Service Men

That the time limit of five years as fixed by Sections 23 (5) and 33 (2) be Removed. (Vancouver 310, 311; Toronto 686.)

This Section in effect authorizes a pension to dependents of an ex-soldier who dies from ailments not connected with military service, provided he was pensioned at 80 per cent or over at the time of death and also provided he dies within five years after discharge or five years after his pension commenced. An amendment to strike out the time limit was embodied in Bill 205 (Sec. 16) introduced in the House of Commons in 1923, but did not become law. The grounds for this unusual feature in pension legislation were apparently: (1) The impossibility of a man with an 80 per cent disability being able to lay up anything for his family and children; (2) The circumstance that the necessary care of the almost totally disabled husband would prevent the wife from earning anything to increase the family income; (3) The helpless position of the wife and children who had acquired a certain sense of security from this regular though restricted pension income, and who were abruptly deprived of it by the death of the father; (4) The probability that the total or nearly total disability would weaken the resistance of the pensioner and thus contribute toward hastening his death, even though the immediate cause was not associated with his service disability; (5) It is also said that the provision had reference to men severely handicapped

by a war injury such as the amputations and blind who were particularly liable to accident in civil life and for whom the Section provided a form of insurance for a limited time until they accommodated themselves to their new condition.

These grounds, when summarized, show two general reasons for giving relief to the dependents even though the death was not due to service; (1) because the magnitude of the husband's disability prevented making ordinary financial provision for the future; and (2) because the magnitude of the disability, or the handicap caused by it, may have had some indirect influence in causing death even though definite evidence of this is lacking.

It must not be overlooked that the Returned Soldiers' Insurance Act, under which ex-service men were eligible for insurance no matter what their condition of health, was of great assistance in these cases.

To cover the additional danger of accident to which handicapped men are exposed, it is understood that the Pensions Board award pension to the wdow even where the death is not due directly to the service dsability and the existence of the disability is merely a contributing factor, unless the man was at the time of the accident engaged in some undertaking which a reasonably prudent man with his disability would not attempt. Thus, a man is blind and is in his home and fire breaks out, and if because of his blindness he is unable to escape in time, pension is awarded even though the war had nothing to do with the fire. On the other hand, if the same man were killed in attempting to cross a crowded thoroughfare without an attendant or without taking the precautions which would be obviously called for in view of his handicap and which might not at all be required of a man who had his sight, the pension would be refused.

Logically this practice is sound and ensures to the dependents a full measure of justice, but there is in the mind of the public generally a certain sympathetic consideration for men heavily handicapped which will not tolerate the idea of the wives or children of these men being in want even though the death of the husband cannot be proved to have had a direct relation to serivce.

It was evidently this idea which led to the enactment of the Section.. In effect it constitutes an insurance policy, covering for a period of five years the death from any cause of heavily disabled men who have families. The Commission has been unable to discover the reason for the imposition of the five year limit. In fact it might be said that the longer the family of the soldier has been solely dependent on pension, the more surely they will require assistance after his death.

The indefinite extension of the period of five years which is suggested should not involve any large financial commitment because it can be fairly anticipated that in practically all cases of 80 per cent disability, except amputations and blind, the eventual cause of death will be the disability for which they are now pensioned, and pension will therefore be payable to the family in the ordinary course. There may be a few cases of accidental death, but these should be almost negligible as men thus pensioned would in most cases be so invalided as to confined to their house or bed. There would of course be cases of death of pensioners from epidemic infections, but, in the case of an 80 per cent pensioner it would probably be admitted that his lessened resistance, due to the large service disability, directly contributed to the death and the family would be pensioned in the usual course. The principal group to be benefitted, therefore, are the blind and amputations, the merits of whose claim no one will deny.

To sum up,—the commitment involved in removing the time limit in this Section will, the Commission considers, be confined very largely to the payment of pensions to families of the blind and of 80 per cent amputations, and to the families of the comparatively few men who may die from some other cause than the service ailment from which they are already 80 per cent disabled.

The Section for the first five years has been generous in providing for the payment of the pension automatically no matter what was the financial position

of the family. Whatever the reason for this may have been, the Commission considers that what the public desires is to see that the dependents of these heavily disabled pensioners are provided for in case of need,—not that they should receive a gratuity regardless of financial condition. The Commission considers that this object would be achieved by removing the time limit in these Sections, but limiting the benefits to those who are in a dependent condition.

Recommendation of Commission

That Sections 23 (5) and 33 (2) be amended by removing the time limit and by providing that the benefits of the section are only to be extended to children or widows who are in a dependent condition.

Re Section 31 (3)

Payments to ex-soldier who is maintaining parents

"Section 31 (3).—When a member of the Forces, previous to his enlistment or during his service, was maintaining, or was substantially assisting in maintaining, one or both of his parents, an amount not exceeding one hundred and eighty dollars per annum may be paid to him for each of such parents as long as he continues such maintenance."

Suggestion by ex-service men

That the fact that the ex-soldier is unable to contribute towards the maintenance of his parents by circumstances beyond his control (such, as unemployment) shall not prevent payment by the Pensions Board towards the maintenance of the parents. (Winnipeg 795.)

In the type case cited (795), the soldier (Imperial) was receiving a pension of $15 per month for loss of use of the right shoulder caused by a gunshot wound. He and his mother lived in a three-roomed shack which was built by the pensioner in his spare time. He had always lived with her and on enlistment assigned half his pay to her. He was given vocational training, and allowances of $35.00 per month, less $13.75 per month for pension, were paid to his mother during his training. The report of the person investigating his claim for additional pension on behalf of his mother stated further that—

> "Since completing training pensioner has always supported his mother, but for the past two years he has done very little beyond odd jobs. His mother, who is 59 years of age, has as a result had to go out doing work by the day, working on an average of two to three days a week at $1.50 per day. This week she started work as a sorter in the Clean Towel Supply Co. at $12 per week, but she says she finds the work too heavy and will have to give it up. At the present time while pensioner is out of work, the money earned by the mother and pensioner's pension of $15 is all they have to keep up the home."

The Investigator says of the man himself:—

> "Single, lives with mother and always has, supporting her to the best of his ability, giving her all his earnings when he is working, also his pension of $15 per month."

The Section is, in terms, not limited to disabled or partially disabled men and as it reads any ex-service man who has been supporting his parents in whole or in part may, so long as he continues such support, draw an amount up to $180 per year on account of each. This, in the opinion of the Commission, was not the object of the Legislation. The purpose obviously must have been to provide for the parents of the disabled soldier who would, on account of their son's disability, be deprived of the whole or part of his support.

The person to be benefited is the parent, not the son, and the effect in practice is or should be that the $180 is passed on by the son to the parent, with whatever additional assistance he can give. The condition that the son shall "continue such maintenance" cannot be intended to apply when the son is, on account of circumstances beyond his control, unable to supplement out of his earnings the amount paid him for his parents. If he is taken ill and is unable to earn, it would be an obvious hardship if the contribution which was being received for the parents was cut off as well. The Commission considers that confusion would be avoided by paying the parents' allowance to the parent direct and not by way of refund to the son. To be consistent with other provisions for parents, the allowance should only be made if the parents are (or would be if the son did not contribute) in a dependent condition, that is, "without income or earnings sufficient to provide maintenance."

The Section was passed in its present form in 1920. It did not follow the recommendation of the Parliamentary Committee of that year which recommended legislation—

> "to provide that a disability pensioner who is maintaining his father or mother or both in addition to his wife shall be entitled to an addition to his pension for each parent not exceeding $180 per annum when he is totally disabled, and a proportionately less amount when his disability is less than total disability." (Parl. Com. Report 1920, P. 9.)

Recommendation of Commission re Section 31 (3)

That Section 31 (3) be amended in the following respects: (a) Limited to pensioners; (b) Limited to cases where the parents are or would be if the son did not contribute, in a dependent condition; (c) Parents' allowance not to be withheld on account of the son being unable, by reason of circumstances beyond his control, to contribute towards his parents' maintenance.

Re Section 33 1)

Refusal of pension to widow in cases where the marriage was after the appearance of the injury or disease resulting in death.

"Section 33 (1).—No pension shall be paid to the widow of a member of the Forces unless she was married to him before the appearance of the injury or disease which resulted in his death . . . ."

Suggestion by ex-service men

That the portion of this Section be struck out which prohibits payment of pension to the widow in cases where the marriage took place after the appearance of the disability, or that a broader interpretation be given to the Section, or that an amendment be made permitting the payment where the marriage took place within one year after the appearance of the disability, or permitting payment to the widow in all cases where there are children. (Halifax 349; P.E.I.-St. John 76; St. John 97; Vancouver 139-148; Calgary 100; Regina 19; Toronto 635-648, 763-767; Winnipeg 240-258.)

The important part of the Section is that the marriage must have taken place "*before the appearance*" of the injury or disease which resulted in his death.

The reasons suggested for this provision are: (1) that it is to prevent the exploitation of the Treasury by the woman who might be willing to marry a disabled soldier on his death-bed for the sake of getting pension; (2) to prevent an attempt by the soldier himself, who knows he is disabled and has an injury

or disease which may cause his death, to benefit his fiancee at the expense of the Country (Toronto 642); (3) that the Country should be under no responsibility to a woman who of her own volition enters into a marriage contract with a soldier in whom injury or disease has appeared and who thus knowingly takes the risk of possible fatal consequences. (Calgary 105, 106; Toronto 766, 767.)

These reasons involve *knowledge* by the parties concerned of the existence of the injury or the disease, and the use of the word "appearance" indicates that the draftsman of the Section had this in mind. The disease might have "existed" without having "appeared." "Appearance" means something which is evident or which manifests itself to the senses of the parties themselves. It is going far beyond the object which Parliament had in view if it is to be said that the parties married after the "appearance" of the injury or disease when neither of them knew nor could reasonably have known of the existence of the disease at that time. (Calgary 102; Toronto 641, 764.)

The following evidence was given to show the distinction which the Pensions Board made between the "existence" and the "appearance" of the disease: -

> "WITNESS: We do not go that far, to say clinical signs later show that it must have *existed*, that is not considered; unless it *actually made its appearance* by signs and symptoms to some one, the man himself or some one he consulted."
>
> "Q. You mean that "appeared" does not mean "existed?" A. "Existed" does not mean "appeared."
>
> "Q. After the disability appeared does not mean after the disability *existed?*"—A. No. it must have made its *appearance.*" (Calgary 101, 102.)
>
> "Q. What do you say about that . . . . do you say the disability has *appeared* when the T.B. was not known and only *became evident* six months after the marriage?"—A. It has not *appeared* at the time of marriage." (Calgary 101; Toronto 641.)

The following letter to the Chairman of the 1921 Parliamentary Committee sets out and illustrates the practice of the Pensions Board under this Section, and contains an amendment suggested by the Pensions Board to remove obscurity,—

"BPC. 17-7-1, Vol. 4.
MAY 16, 1921.

"HUME CRONYN, ESQ., M.P.,
Chairman, Parliamentary Committee on Pensions,
House of Commons.

Section 33 of the Pension Act.

DEAR SIR,—In accordance with your request to submit a report on the marginally noted section of the Act, the subject has had careful consideration. It is thought that this section is not clear as it might be, and the following examples will show the interpretation at present being placed on it by the Commissioners:—

(a) A pensioner has lost a leg on service but such disabling condition does not shorten his expectancy. Marriage is contracted after discharge and within a year a sarcoma (which is a malignant tumor) develops on the stump and the man dies. The sarcoma is the direct consequence of the disability which occurred as the result of service. As, however, the actual disease which resulted in death had not manifested itself or been diagnosed at the time of marriage, the Board is of opinion that the dependents are eligible for pension.

(b) Another case is that of a man discharged from the service as fit. He is told that he is fit and believes such to be the case. Within a year tuberculosis appears and obviously was present prior to discharge and prior to his marriage, and yet neither this man nor his wife, being married immediately after discharge, had any reason to know of the presence of so serious a condition. Obviously the marriage was not contracted in order to obtain a pension. On the same grounds as the previous case, the Board considers that the dependents are eligible for pension.

(c) A more difficult case is that of a man discharged for some slight disability consequent upon bronchitis. He gets married and within a few months a tuberculosis process is superimposed and he dies shortly afterwards. Because he had been awarded pension for bronchitis, which developed into tuberculosis, which latter condition is also pensionable, it is taken as proof that the disease which resulted in death had manifested itself prior to marriage; dependents on this basis are not considered as eligible for pension.

2. It is not thought that the Act should be so amended as to allow pension to widows of ex-members of the forces who have died when at the time of the marriage the member of the forces was being pensioned as a result of the disease which terminated in his death, or, to put it in other words, the purpose of the Act is understood to be to exclude from pension the widow of an ex-member of the forces who marries when medical opinion would have advised otherwise.

3. The Board is of opinion that when a member of the forces is married subsequent to physical impairment attributable to his military service and has died as the direct result of such physical impairment, no pension shall be paid to his widow unless it is fully substantiated—

(a) that the complication or sequel of the physical impairment was a direct complication or sequel;
(b) that it was not such as could have been, at the time of his marriage, reasonably anticipated, foreseen or expected to occur; and
(c) that the marriage was undertaken without any intention whatsoever to obtain unwarranted pension benefits.

4. If your Committee is of opinion that Section 33 (1) of the Pension Act as amended might with advantage be more clearly expressed it is suggested, for your consideration, that this object could be attained by repealing the clause in question and substituting the following therefor:—

No pension shall be paid to the widow of a member of the forces unless she was married to him previous to the time at which the pensionable injury or disease which resulted in his death manifested itself as to be recognizable as such by medical men or prior to the recurrence of a pensionable injury or disease which had been so improved as to remove the resultant disability at the time of marriage; and further unless she was living with him or was maintained by him, or was, in the opinion of the Commission, entitled to be maintained by him at the time of his death and for a reasonable time previously thereto.

Yours truly,

(Sgd.) J. PATON,
Assistant Secretary."

The following are summaries of the evidence presented as to some of the type cases cited in support of the contention that too strict a construction was being given to the Section by the Pensions Board.

Case A. (Halifax 349):

An officer, with three years' service, discharged fit, and appointed to the Permanent Force in December, 1918, after being passed medically fit for that service. He was married in November, 1919, and died May 5th, 1920. In this case it was contended that there could have been no "appearance" of the injury or disease at the time of marriage, because the officer had been passed fit for Permanent Force Service. Pension refused—marriage after appearance of disability.

Case B. (Regina 20, 21):

A man who was supposed to be perfectly fit and who married. He applied for insurance, and on the examination heart trouble was discovered. On enquiry the medical examiners considered that the heart trouble could be traced back to the service period as the man had fainted once while in service, although no disability was recorded. This was a case where it was suggested that although the disease had evidently existed during service, yet it had not appeared until after marriage. After the discovery of the heart trouble the man was put on a pension. He died three months after. Pension refused—because the marriage was after the appearance of the disability.

Case C. (Winnipeg 240-255i):

An officer, enlisted as a private in October, 1914, obtained commission in Imperial Forces, discharged March 26, 1916, medically unfit, suffering with haemorrhage. Passed fit and joined C.E.F. January 8, 1917, proceeding to France November 29, 1917. Gassed and admitted to Casualty Clearing Station February 17, 1918, on account of haemoptysis (spitting blood), invalided to England and admitted to hospital February 25, 1918. Discharged from hospital April 9, 1918, and passed fit for service. In view of the fact that specialists had pronounced him free of the old lung trouble he and his fiancee decided to be married. (Winnipeg 242). Married June 1, 1918. (Winnipeg 255 (f)). Proceeded to France May 31, 1918. Awarded the M.C. for gallantry in the field. Back to England for demobilization March 4, 1919. Admitted to hospital for T.B. May 25, 1919. Discharged in Canada June 10, 1919. Died November 29, 1921. Cause of death haemoptysis, second lesion upper lobe right lung, not tuberculous. Gassed two or three times during the war. (Winnipeg 255 H). Pension refused as "pension not indicated. Disease resulting in death made its appearance prior to marriage....." (Winnipeg 255i). Medical Report January 25, 1923: "in my opinion it is obvious that the Medical Board which examined him in May, 1918, just before his marriage, was in error when it stated lungs and heart negative and no findings of T.B." (Winnipeg 255F).

The claim for pension for the widow was put on two grounds:

(1) That the disease which was the immediate cause of death was not the original tuberculosis but was a recurrence which did not take place (and which, therefore, could not be said to have appeared) until after marriage. As to this point, Section 2 (a) of the Pension Act indicates that remote and latent original disease can be separated from the active recurrence. This subsection expressly provides that—

> "Appearance of the injury or disease includes the recurrence of an injury or disease which has been so improved as to have removed the resultant disability."

There is no question apparently but that in the opinion of the Medical Board in England in May, 1918, the original injury or disease had been improved so as to have removed the resultant disability because this officer was, just previous to his marriage, passed by tuberculosis specialists as being fit for service in France, and rejoined and served accordingly.

(2) The second ground of claim is that by reason of the medical examination in May, 1918, which passed him fit for service and thus sent him back to France, the authorities are estopped from now contending that the injury or disease which resulted in the death had "appeared" before the marriage.

Case D. (Winnipeg 255i-256):

Enlistment in June, 1915. Proceeded to France January, 1916, and served over two years. Wounded in right ankle, also had otitis media (running ears). Discharged May 20, 1918, no pension because no disability. Married November 4, 1919. Died in October, 1920, from cerebral hemiplegia (paralysis due to trouble in the brain) due to embolism (blood clot). It was admitted that the death was attributable to service, but pension was refused to the widow because it was contended that the marriage took place after the appearance of the disability. The connection of the death with service was admitted on the ground that the clot in the brain had resulted from the old ear trouble. The specialist who performed the post mortem says:—

> "I am of the opinion that the heart condition found at the autopsy must have existed for a year, possibly longer."

There was fair ground for argument that this was a "recurrence" because there had been no pensionable disability at discharge. The same argument as the first contention made in Case C. applied in this case.

Case E. (Toronto 635-648):

Soldier discharged August 9, 1918, with pensionable disability, loss of three fingers, married April, 1919. In June, 1919, admitted to hospital for T.B. Discharged July, 1920, as total disability. November, 1920, re-admitted to sanatorium. Died May, 1921. Pension was refused on the ground that the disease resulting in death "appeared" before marriage. The Director of Medical Services said:—

> "I do not think it possible that any physician could have overlooked the fact of the man having had tuberculosis at the time he married, and that it would appear to be a reasonable conclusion that, to the *layman he would appear* to have been in anything but ordinary health. I am of the opinion, therefore, that the appearance of the disease in this case should be considered to have been previous to marriage in April, 1919."

Previous to the marriage to this man, the wife had been the widow of another soldier who had been killed in action, and she was in receipt of pension on account of the latter's death which pension was, of course, discontinued on her re-marriage. (Toronto 635, 648.)

Here was a case where the date of the appearance of the disease had to be determined by medical opinion based on the condition of the man when he was admitted to sanatorium in June, 1919 (weight 119 lbs.; height 5' 9½"; T.B., condition fairly general through both lungs). From this condition it was decided, not unreasonably, that the man must have shown distinct signs of ill-health at the time of his marriage two months before, and that the disease had therefore appeared at that time.

In some of these cases the hardship is that the wife did not, and, in view of the medical reports, could not, have anticipated that the injury or disease which was apparently cured would light up later and cause death. In others,

the existence of the disease was not known although subsequent developments indicated that it had been present at the time of marriage. There was in neither class of cases any intention to exploit the Country.

There is another class of meritorious cases, viz., where there has been a bona fide engagement previous to going overseas and the man comes home partially disabled and finds the woman ready to carry out the contract notwithstanding the less attractive outlook. Distressing cases like these were in evidence before the 1922 Parliamentary Committee (Proceedings 119, 120.) A personal instance was given by the ex-soldier himself at Calgary (104)—

> "If you will permit me I will cite my own case. I was in Canada nearly four years prior to the outbreak of the war; I had been corresponding with a young lady in Scotland. I left Canada on August 1, 1914, to go home to be married. Before I got home the war broke out and I enlisted on August 30, 1914, realizing that it was my duty to fight rather than get married. I was discharged at the end of 1916, with a 40% disability. I returned to Canada in about six months, but I was unable financially to get married until the end of 1918. Surely my wife is as much entitled to a pension as the widow of a man who married and then went overseas. A man who honestly went overseas before he was married ought to be in the same position as a man who said: 'Well I am going overseas, I will get married before I go so that if anything happens my wife will get the pension.' "

There are, therefore, three classes of cases which have special merit, and in none of them is there any element of mercenary motive:

(1) The case where subsequent developments show that the disease must have existed at the time of the marriage, although its presence was not recognized, or, in other words, it had not "appeared."

(2) The cases where the marriage takes place after the first appearance of the injury or disease, but at a time when the disease has so subsided that there is no reasonable expectation that such injury or disease will be a factor in hastening death. The man subsequently dies of a recurrence.

(3) The cases where there was, before any injury or disease appeared, a bona fide engagement to marry and where the marriage was not in any sense influenced by the prospect of a pension, but to carry out the previous engagement.

As to Class (1), there should be no difficulty if the section is construed so that "appearance" means "evident or that which should be evident to the parties themselves," but if there is the appearance of ill-health and if the parties refrain from making inquiries as to its nature it cannot be said that the disease has not appeared.

The Commission with considerable hesitation suggests an amendment with the object of trying to bring out more clearly the important factor which is: knowledge by the parties of the ailment or knowledge of such symptoms as would have led reasonably prudent people to make inquiries from which they would have learned of the potential seriousness of the ailment. The amendment suggested does away with "appearance" and substitutes "knowledge", express or implied. If with such knowledge the marriage takes place, no pension should be granted if the ailment terminates fatally.

As to Class (2) (recurrences), Section 2(a) in effect allows the parties to disregard an injury or disease which is apparently cured at the time of marriage, and permits pension if death ensues from a subsequent recurrence.

The Commission therefore suggests an amendment perpetuating the spirit of Section 2 (a) and conforming with the amendment above referred to which makes "knowledge" instead of "appearance" the factor which defeats the right to pension.

As to Class (3), viz., where the marriage is to carry out a pre-war engagement: While the fidelity shown by the wife in marrying notwithstanding the husband's disability is highly commendable, her position as to pension is distinctly different from that of the woman who marries in ignorance of the existence of any physical impairment. In the former case the wife deliberately takes the risk of the husband's premature death, and it has to be assumed that she is not unprepared for that dreaded possibility. If there are no children it is possible that she may return to her former occupation and may be no worse off financially than before her marriage. Under these circumstances it is difficult to find a sound basis upon which a claim to pension as of right can be established. There are two contingencies, however, in which the Commission thinks this widow merits special consideration: first, where there are children of the marriage, or, secondly, where the widow is in a dependent condition, that is, **without earnings or income sufficient for maintenance.**

As to the first, although no pension is at present awarded a widow under the above circumstances, pension is nevertheless awarded to the children of the marriage. The State recognizes its liability to them, and as result of the death of the father may provide for them at orphan rates, while the mother receives nothing. She must, therefore, if without means, do one of the two things, either leave the children and seek work outside in order to support herself, or try to eke out an existence for herself and the family on the pension granted to the children. These alternatives involve either the placing of the children in a home if she works, or poverty and under-nourishment if she remains with them. In either case the children suffer, and unjustly so in view of the liability of the State towards them, and its obligations to their deceased father. It is difficult, then, to deny that sufficient pension should be provided to meet the needs of the family, living as a family, and the only way this can be secured — because the present provision for orphan rates will not meet it—is to award pension to the widow, perhaps not as a right due herself, but, even if on no other ground, as the rightful and necessary guardian of her deceased husband's **children.**

The second contingency under which the woman marrying in pursuance of a pre-enlistment engagement may be be entitled to consideration in case her husband dies, is the case where she is in a dependent condition, that is, without earnings or income sufficient for support. There is only one reason which occurs to the Commission for making provision for her when she deliberately married with knowledge of her husband's disability, such reason being that the engagement to marry, made before the disability occurred, constituted a definite relation in honour if not in law, and that the subsequent ratification by marriage sanctioned the bond from the beginning and gave the parties some claim to consideration in respect of a disability suffered after the betrothal. It was argued with some force that the woman honourably betrothed to a man should have no less claim than a woman who, although not married, lives with a man in immoral co-habitation as his wife. The latter may, in the discretion of the Pensions Board, be paid a wife's pension. (Vancouver 141; Pensions Act Sec. 33 (3).)

There is also the consideration, although not a reason, that recognition might well be given to a woman who as a fiancee sees her future husband go overseas and on his return honourably carried out her engagement even though the husband, as the result of service, has become disabled, and her cares and responsibilities are thereby increased. The Commission therefore considers that while no satisfying logical ground appears for granting pension as of right, the circumstances merit recognition at least to the extent of providing for such **a woman if her husband dies and she is in a dependent condition.**

The problem then is to ascertain the cases in which there have been bona fide engagements previous to the suffering of the disability. Obviously the proof

involved is of so indefinite a character and so difficult to obtain that such an inquiry would be quite impracticable. The only alternative is to provide for marriages within some definite period. It is reasonable to suppose that where there was a pre-enlistment engagement the parties would marry with one year at most after discharge, and, simply with the object of providing for this class, the Commission submits an amendment covering these cases when there are children or when the widow is in need. The Commission realizes that the arbitrary time limit will include, no doubt, a number of cases where there was no pre-war betrothal, and which are therefore not intended to be benefited. There will also assuredly be cases where there was such engagement and where the parties were prevented from marrying within the year from causes beyond their control, but the Commission is strongly of opinion that in the amendment suggested it has gone at least as far as can possibly be justified on any sound ground, and that no further general extension in respect of these cases should be entertained. The Commission's suggestion of limiting the benefits of the "one year" amendment to cases where there are children, or where the widow is in need, is a distinct limitation on the proposals in this respect made at Calgary (104), Regina (19), Winnipeg (240-260), Toronto (636). It is also a modification of a similar provision which was recommended by the Parliamentary Committee in 1922 (see Committee Proceedings, P. XXV and 121), and incorporated in Bills introduced both in 1922 and 1923, but struck out. An estimate of the additional liability involved in an amendment permitting pension to widows married after the appearance of the disbaility without time limit, and, alternatively, if the period for marriage was limited to one year after the husband's discharge from service, is contained in the following letter:—

"Ottawa, February 7, 1924.

"H. D. Dewar, Esq.,
Secretary, Royal Commission on Pensions, etc.,
Senate Chambers,
Ottawa, Ontario.

Re Section 33 of the Pension Act.

Dear Sir:—

I am instructed to refer to your letter of the 2nd instant in connection with the subject marginally noted and to report as follows:—

The Board of Pension Commissioners furnished the Parliamentary Committees of 1921 and 1922 with a rough estimate of increased annual charge on account of pension for widows who were married after the appearance of the disability.

The estimate in 1922 was $123,000.00 per annum, with an additional increase each year of $26,000.00.

The estimated additional charge if widows are pensioned who married within one year of the husband's discharge from service would be $85,000 with an annual increase added to this of $15,000.

There are no statistics available on these points and the estimates are very rough ones. They are based on the marriage rate of disability pensioners and the subsequent death rate of same.

The estimate is probably a conservative one in view of the fact that a number of badly disabled men, such as those in sanatoria, married almost immediately after discharge and died within a few months of their marriage.

Yours very truly,

(Sgd.) W. E. DEXTER,
for Secretary."

The Commission has no information on which to base an estimate as to the liability involved if the further limitation to cases where there were children, or where the widow was in a dependent condition, were imposed.

In England no pension is paid to a widow unless the marriage took place before discharge or before the end of the war. (Winnipeg 234, 235.) In the United States, persion is paid to the widow if the marriage takes place within ten years after discharge, and the fact of the existence or appearance or knowledge of the injury or disease before the marriage seems to have nothing to do with the widow's right to pension. (See United States "War Risk Insurance Act" Section 300, 301.)

Recommendation of Commission. Section 33 (1)

That Section 33 be amended to the following effect: (a) By striking out the words "unless she was married to him before the appearance of the injury or disease which resulted in his death" in sub-section (1), and substituting therefor some phrase in the following sense, viz., "if her marriage to him took place at a time when symptoms existed from which a reasonably prudent man making reasonable enquiries would have known of the existence and the potential seriousness of the injury or disease which ultimately resulted in death, provided, however, that it shall be conclusively presumed that such symptoms did not exist if at time of the marriage an injury or disease previously known was so improved as to have removed any resultant pensionable disability (b) By inserting a provision that the foregoing prohibition shall not apply when the marriage took place prior to a date one year after the discharge of the member of the forces if (*a*) there are children of the marriage of pensionable age, or (*b*) the widow is in a dependent condition.

Re Sections 33 (2) and 23 (5)

Pension to dependents of pensioners in receipt of 80% pension or over who died from other causes within five years after discharge or commencement of pension

"Section 33 (2).—Subject to paragraph one of this Section, the widow of a pensioner who, previous to his death, was pensioned for disability in any of the Classes 1 to 5 mentioned in Schedule A shall be entitled to a pension as if he had died on service whether his death was attributable to his service or not, provided that the death occurs within five years after the date of retirement or discharge or the date of commencement of pension."

"Section 23 (5).—The children of a pensioner who was pensioned in any of Classes 1 to 5 mentioned in Schedule A and who has died, shall be entitled to a pension as if he had died on service whether his death was attributable to his service or not, provided that the death occurs within five years after the date of retirement or discharge or the date of the commencement of pension."

Suggestion by Ex-Service Men

That the time limit of five years as fixed by sections 33 (2) and 23 (5) be removed.

Recommendation of Commission

See discussion and recommendation under Section 23 (5).

Re Section 33 (2)

Widows of Disability Pensioners—Death not connected with service—Continuing pension

Suggestion by Ex-Service Men

That in case of the death of an ex-service man, receiving less than 80 per cent pension for a disability, whose death is not connected with service,

> the pension be continued to the widow if she is in need. (P.E. I.–St. 71, 74).

As an example a case was cited where the soldier who had four years' service was on pension for bronchitis and injured knee, caused by gunshot wound. He became ill, went to hospital, was operated on for obstruction of the bowel and died of heart failure. Dependents were refused pension on the ground that the obstruction was not connected with service. (P.E.I.–St. John 72). The claim was that the dependents, if in need, should at least get pension to the amount which the soldier had been receiving, on the ground that on account of his disability he was not able to lay up anything for his family. (P.E.I.–St. John 74-5) and that the greater his disability the less his power to accumulate any surplus (75).

The rule is that if the service disability was a material factor in hastening death, although there were other contributing causes, the dependents get full pension, but if the death was not connected with a service disability the dependents get nothing. There is no such thing as proportionate pensions on account of death. (P.E.I.–St. John 73).

The hardship in these cases arises particularly where the family have become accustomed to rely on the disability pension as an aid to support and where the death occurs from other causes and the pension abruptly ceases.

This situation has been met, in cases where the pension is 80 per cent or over, by the provisions of Sections 33 (2) and 23 (5).

An amendment for the benefit of the children of the man who was getting less than 80 per cent disability pension was recommended by the 1922 Parliamentary Committee and added as sub-section (6) to Section 23. Under this amendment the Pensions Board is authorized to pay for the benefit of the child a bonus equal to the child's pension for one year. The ground for this recommendation by the Committee was that:—

> "the pension which his children were in receipt of ceases on his death, and as a result the children are suddenly deprived of the benefits accruing to them during the lifetime of the fathe . The Committee considers that this works a hardship on the children." (1922 Par. Com. Report, P. XXV).

But the reasoning applies with equal or greater force to the widow. She suddenly loses the benefit of the amount which was being paid on her account as the wife of the pensioner and she also loses the benefit of the husband's partial earnings in which she would naturally share.

The suggestion is that the pension be continued to the dependents in case of need, but, basically, pensions are not granted because of the need of the applicant but because service was a material factor in the death or disability.

The Commission considers that to continue disability pensions after death, from a cause not connected with service, is such a radical departure from well-recognized pension principles that it is not warranted in recommending the further extension of the exceptions already created by Sections 23 (5), 23 (6) and 33 (2).

Recommendation of Commission re Section 33 (2)

None.

Re Sections 34 (1), 34 (3), 34 (4), 34 (5), 34 (7)

Pensions to widowed mothers prospectively dependent—Deductions for earnings and income

"Section 34 (1). A parent or any person in the place of a parent with respect of a member of the forces who has died shall be entitled to a pension when such member of the forces left no child, widow, or divorced wife who is

entitled to a pension.....and when such parent or person is in a dependent condition and was, at the time of the death of such member of the forces, wholly or to a substantial extent, maintained by him."

"Section 34 (3).—When a parent or person in the place of a parent who was not wholly or to a substantial extent maintained by the member of the forces at the time of his death, subsequently falls into a dependent condition, such parent or person may be awarded a pension provided he or she is incapacitated by mental or physical infirmity from earning a livelihood, and provided also that in the opinion of the Commission such member of the forces would have wholly or to a substantial extent maintained such parent or person had he not died."

"Section 34 (4).—In cases in which a member of the forces has died leaving more than one parent or person in the place of a parent who were wholly or to a substantial extent maintained by him, the pension for any such parent or person may be increased by an additional amount not exceeding one hundred and eighty dollars per annum and the total pension apportioned between such parents or between the parent and such other person."

"Section 34 (5).—The pension to any parent or person in the place of a parent shall be subject to review from time to time and shall be continued, increased, decreased or discontinued in accordance with the amount deemed necessary by the Commission to provide a maintenance for such parent or person but in no case shall such pension exceed the amount of pension prescribed for parents in Schedule B of this Act."

"Section 34 (7).—The pension to a widowed mother shall not be reduced on account of her earnings from personal employment or on account of her having free lodgings or so long as she resides in Canada on account of her having an income from other sources which does not exceed two hundred and forty dollars per annum....."

"Section 2 (p).—Widowed mother may, in the discretion of the Commission, include a mother deserted by her husband when the circumstances of the case are, in the opinion of the Commission, such as would entitle her to a pension."

Suggestion by Ex-Service Men

> That the provision for widowed mothers who become dependent after the soldier's death be the same as for widowed mothers who are actually dependent at the time of death. (Winnipeg 265, 438, 792).

The effect of the Statute as administered is that there are two classes of widowed mothers, viz.:

(1) The dependent widowed mother who was being wholly or partially maintained by the son at the time of his death. This widow has no deduction made from her pension on account of any earning she may have from her personal employment and she may also have income up to $240 per year without any reduction being made on that account.

(2) There is also the dependent widowed mother who, although not being maintained by the son at the time of his death, can show to the satisfaction of the Pensions Board that she would have been maintained by him if he had lived. Both the earnings and income of this widow are taken into account before pension is allowed.

To discuss the involved provisions of the subsections above quoted would only becloud the point. The distinction is there. (Winnipeg 438.) This was recognized when the Pension Act was passed, because in an annotation issued by the Pensions Board in 1919, it is clearly pointed out that—

> "This proviso" (meaning the proviso prohibiting deduction of earnings from pension) "does not apply to cases of prospective dependency."

The contention is that if the Pensions Board comes to the conclusion that the needy mother would have been maintained by the son if he had lived, then the case is exactly the same as where the mother was at the time of death actually being maintained by the son. The fact of her actually having been maintained is only evidence that he would have continued to maintain her, and the claim is that the real inquiry in all these cases should be: Would the son have supported the mother if he had lived? If so, the Country should reasonably make up to her what she has lost.

If the son at the time of his death was actually supporting the mother, that is definite evidence that he would have continued to do so, and compensation is readily made. When the son was not actually supporting the mother at the time of death the Pensions Board naturally want some evidence that he would have done so, but having become satisfied on that point it is difficult to see why the Act should prescribe that the mother's earnings should be taken off the pension in the latter case and not in the former.

The object of the legislation must be to ensure that widowed mothers of soldiers, who have lost their lives on service, should not be forced to earn their living, and that if they voluntarily take up some remunerative occupation, the Country should not profit by reducing the pension. The present provision for these mothers who have only become dependent since the son's death plainly puts on them the burden of earning so long as they have the physical and mental strength. Section 34 (3) only permits pension when the parent is—

> "incapacitated by mental or physical infirmity from earning a livelihood."

This might quite properly apply to fathers but not, in the opinion of the Commission, in the case of mothers.

In Great Britain the distinction was made between parents dependent on the son at the time of his enlistment and parents who—

> "*at any time*.. ....are wholly or partly incapable of self-support from age or infirmity." (Royal Warrant, Article 21 (1) (a) (b),

and there also, if the soldier was unmarried and had no other dependents, a small pension was paid to the parent "*irrespective* of pre-war dependence, age, infirmity or pecuniary need." (Royal Warrant, Article 21 (c).)

These distinctions have since been done away with in Great Britain and the only provision now, for parents, is in case of need, and in that case earnings and income are deducted. (Winnipeg 210; Toronto 122.) This change in the regulation did not however cut off pension which had already been awarded on the ground that the parent had been dependent on the son at the time of enlistment. This pension was at a fixed rate regardless of need, earnings, or income.

In the United States no distinction is made between widowed mothers actually dependent at the time of the son's death and those who become dependent afterward. The provision is—Article III, Sec. 301 (g), War Risk Insurance Act:

> "Such compensation shall be payable whether her widowhood arises before or after the death of the person and whenever her condition is such that if the person were living the widowed mother would have been dependent upon him for support."

On the question of deducting income, a case was cited (Regina 35) where the widow had sold a property to be paid for in equal monthly instalments which included both principal and interest. Apparently this whole sum was treated as income and was deducted in fixing the pension. It was the contention that in cases like this a calculation should be made as to how much was capital and how much income, and only the latter deducted. The Commission considers

there is no necessity for any further regulation to cover a case of this kind. The Statute, as it stands, expressly specifies "income," not "capital," and a calculation would readily show the amount of "income" which is to be deducted.

Recommendation of Commission re Sections 34 (1), 34 (3), 34 (4), 34 (5), 34 (7)

That provision be made so that widowed mothers who fall into a dependent condition after the soldier's death and who, in the opinion of the Pensions Board, would have been wholly or to a substantial extent maintained by the soldier had he lived, will be in the same position regarding pension as the widowed mother under Sections 34 (1) and 34 (7), so that personal earnings will not be deducted from pension.

Re Section 34 (1), 34 (3)

Widowed Mother's Pension to be granted as of right

(The Sections are quoted ante.)

Suggestion by ex-service men

That provision be made so that a widowed mother will be pensioned irrespective of her having been previously maintained by the son and regardless of whether her earnings or income are sufficient for her maintenance; in other words, that she be pensioned as of right and not on the basis of need. (Winnipeg 265, 540; Toronto 649).

The claim was that the pension for the widowed mother should be awarded on the same grounds as pension to the wife. The rule in Canada (Sec. 34 (3)), Great Britain (R.W. Sec. 21), and the United States (War Risk Insurance Act, Sec. 301, as amended) is that, to be entitled to pension, dependency must be shown. There was one exception (in Great Britain) whereby if the soldier was unmarried and under 26 years of age, and no pension was paid to any other dependent, a small pension of 5s per week was paid to the parents irrespective of dependence, infirmity or pecuniary need. This provision has now been done away with. It was proposed in Winnipeg that the above suggestion might be made to apply to the case of the unmarried son at least. (Winnipeg 265.)

The subject of pensions to mothers was discussed in the House of Commons on May 1, 1922 (Hansard, 1305, et seq.), and a resolution was passed approving the principle: (a) that pension to widowed mothers should not be reduced on account of her income; and (b) that pension should be granted as of right, and not simply when in need. The Parliamentary Committee of 1922 (See 1922 Parl. Com. Report, page XVII) did not accept the principle of the resolution but considered that Section 34 of the Pension Act as it stood was equitable and should not be altered. The latter part of the resolution (as to pensions to widowed mothers being granted as of right) was also the subject of a proposal made by representatives of ex-service men before the Commission at Winnipeg. (Winnipeg 265, 538).

The Commission has carefully studied the observations made in the debate on the above resolution and the instances cited, and is of the opinion that the hardship for which a remedy was sought would be largely cured by doing away with the practice of deducting earnings from the pension of a widowed mother who did not happen to be dependent at the time of her son's death. This the Commission has already recommended. The Commission considers that the underlying principle of pensions to widowed mother is different from that of pensions to wives and children and this is borne out by both the British and United States provisions. The basis of a widowed mother's pension might, as before stated, be put on the ground that she should not be forced to go out into the world to earn her living, but if, without having to engage in personal employment, she is in receipt of an income from investment or from contributions made.

by any other children, the Commission considers that it is not improper to assume that the son, if he had lived, would have taken into consideration the amount of revenue which his mother was receiving from these other sources, and would have felt justified in regulating his contribution accordingly. The aim of the Country is to make up, in reasonable measure, to the mother what the deceased son would have contributed. The general principle that dependency and need should be shown in these cases has been adopted and practised on what the Commission considers to be sound grounds. The fact that no deduction is made from the pension for earnings and that income up to $240 per year is also not taken into consideration in awarding the pension, shows substantial recognition of the merits of this class.

Recommendation of Commission re Sections 34 (1), 34 (3).

None.

Re Section 38

Time for payment of pensions for deaths

"Pensions awarded with respect to the death of a member of the forces shall be paid from the day following the day of the death except,—(a) in the case in which a pension is awarded to a parent who was not wholly or to a substantial extent maintained by the member of the forces at the time of his death, in which case the pension shall be paid from a day to be fixed in each case by the Commission; and, (b) in the case of a posthumous child of a member of the forces, in which case the pension for such child shall be paid from the date of its birth."

Suggestion by Ex-Service Men.

That on the death of a pensioner one month's pension be paid to the dependents automatically in order to tide over the period during which the question of whether the death was connected with service is being investigated. (Fort William, Winnipeg 772.)

Many pensioners may die from ailments other than those for which they are pensioned, and consequently because a pension has been paid in the pensioner's lifetime it does not at all follow that pension is payable to his dependents after his death. Some investigation has to be made, therefore, in every case of death to determine whether the death itself is connected with service. Often the cause of death as stated in the death certificate is sufficient evidence to convince Head Office that it is connected with the service disability for which pension was being paid. In other cases reports have to be obtained to show connection of the death with service, and the date of marriage, family particulars and other facts, have to be procured to ensure that the death is pensionable under the many and intricate provisions of the Act.

In the type case cited (Ft. William, Winnipeg, 773) the man had been on pension for tuberculosis and died from obstruction of the bowel on April 3, 1922 (Winnipeg, 773). The first payment of pension was made on June 7, 1922 (Winnipeg, 776). This delay would not have been unreasonable if any extended investigation had been required but as the man was receiving 100 per cent pension his death was pensionable whether it was connected with service or not (Winnipeg, 777, Pensions Act, Sect. 33 (2)). Although death took place on April 3, word was not received from Ottawa until May 20, that the Pensions Board had ruled that as the deceased was a Class One pensioner his widow, if otherwise eligible, was entitled to pension. (Winnipeg 776.) Investigation was made on May 3, and request was made on June 9, that the widow fill out an application. (Ft. William, Winnipeg 776.) This delay is obviously rather extended and financial circumstances were apparently distressing (773, 775).

The evidence as to the general practice in dealing with death claims is:

> "of course an odd case (of delay) does come up. We give these death claims preference over everything else and frequently telegraph."

In Great Britain provision is made for a special payment to tide over financial distress while the question of the right to pension for the death is being considered. This payment is made on the recommendation of the Local Committee and care is taken to ensure that the widow understands that the payment is not to be regarded in any sense as indicating that pension will eventually be paid. The Committee before recommending the payment, however, must satisfy themselves that the prospect of pensions being awarded is reasonably clear. (Local Committee's Hand-book, p. 39, para. 101). Such a provision would obviate serious hardship in some cases especially where a large disability pension has been suddenly cut off by the death.

Recommendation of Commission re Section 38.

> That provision be made that, in case of the death of a pensioner and pending consideration of a claim for Pension on account of such death, payment of an amount equal to Pension for death shall be made to the dependent in weekly instalments for a period not exceeding one month, such amount to be refunded if Pension is eventually awarded.

Re Section 41

Allowance to widowed mothers and widows on re-marriage

"Section 41.—Upon the marriage or re-marriage of the mother, widow, or divorced wife of a deceased member of the forces who is receiving a pension, or of a woman awarded a pension under sub-section three of section thirty-three of this Act, her pension shall cease, and she shall then be entitled to be paid one year's pension as a final payment."

Suggestion by Ex-Service Men

> That if the widow who has re-married is deserted or again becomes a widow within five years after the re-marriage she should be restored to pension. (Toronto 666, 679, 1136; Regina 15).

Under Section 41, one year's pension is paid as a bonus to a woman who has been receiving pension as the mother, widow, etc., of the ex-soldier. Cases have arisen—not so infrequently as might have been supposed—where it turns out that the re-marriage has been induced to some extent by the attraction of the one year's bonus and later the woman has been deserted. There are also cases, much more deserving, where the second husband has died within a short time after re-marriage. In either case the woman's right to pension has been terminated by the bonus payment. The Pensions Board have authority to, and, in certain cases where the step-father was unable to earn a livelihood, did increase the children's pension to orphan rates (Toronto 669). The right of the children to pension is not affected by the re-marriage.

The reasoning is that the woman has, by her re-marriage, ceased to be the dependent of the soldier, and that consequently the obligation of the State to her, as such dependent, has terminated. The opposing consideration is that the undertaking of the State with the soldier was to make up reasonably to his dependents the pecuniary assistance he would have supplied had he lived. The State also makes the liberal presumption that had the soldier not lost his life on service he would have supplied this assistance to the dependents during their life time.

There are, the Commission is convinced, cases of genuine hardship to soldiers' female dependents who have re-married and thus lost their pension,,

and whose husbands have died in a comparatively short time, leaving them with no means of support. It is strongly urged that the fact that they have tried unsuccessfully to restore themselves to normal life by re-marrying does not discharge the State from its revived responsibility.

In Great Britain there is a different practice as between officers and other ranks. In the case of the female dependent of an officer no bounty is paid on her re-marriage, but if she becomes a widow, pension is revived. In the case of other ranks, one year's pension is paid as a gratuity on re-marriage, but on the death of the second husband pension is not restored.

The attention of the Commission has been called to the Act respecting the Royal Northwest Mounted Police (R.S.C. 1906, C. 91, S. 56 (2)). This provides that on the re-marriage of a widow the pension is simply suspended, and on the death of the second husband it is restored, but under this Act no bonus is paid on the re-marriage.

The Commission considers that there is sound reason for an extension of the present provision of the Pensions Act. As the Act stands the prudent woman is faced with a serious question when an opportunity for re-marriage presents itself. If she marries she gets a home and a cash bonus, but she forfeits forever an assured maintenance for the rest of her life. The Commission considers that it is in the interest of the Country as well as of the dependent woman that her misgivings be removed and the re-marriage encouraged by some financial assurance for the future. The advantage from the general social standpoint is clear and, in addition the children of the soldier, who are to a certain extent wards of the State, have the benefit of paternal care. The financial liability involved is not absolute, but purely contingent on the death of the husband within five years. Against this can be placed the probability of a greater number of marriages, and the consequent probable relief of the State from subsequent pension payments. There would also be a reduction in the amount paid for children's pensions which, if the mother remained a widow, might have to be increased to orphan rates. All the foregoing applies to cases where the re-marriage is terminated by the husband's death.

But it is further urged that provision be made for cases of desertion by the second husband. The Commission considers that while there are cases of hardship under these circumstances, it would only open the door to fraud to make any such general provision. The woman who re-marries should take some responsibility, and the fact that in case of desertion pension will not be revived may have a good influence in preventing hasty and ill-considered marriages. If the claim for provision on desertion were admitted it would follow that there would be an even stronger claim in case the second husband was prevented by illness from supporting his wife. For the State to provide for these cases would, in effect, completely disregard the new marriage relation, and in the result, benefit a man who has no claim, viz., the second husband, both by making him careless of his responsibility for the maintenance of his family and by providing indirectly some part of his own support.

The Commission does not consider that, on the death of the second husband, the woman should be entitled as of right to be reinstated to pension. The husband may have left her a substantial estate. The provision should only cover cases of need and be for so long as such need continues. The limitation in the suggestion to cases of death within five years of the re-marriage is, it is assumed, based on the idea that, if the second husband has lived for that period, it can be presumed that he has made some provision for his wife. This ensures that the necessity for the husband and wife providing for the future is not done away with by undue reliance on the bounty of the State. It also adds the qualification of thrift to those which the woman may reasonably require of the man before accepting him.

SESSIONAL PAPER No. 203

Recommendation of Commission re Section 41

That provision be made that in case of the death of the husband of a woman married or re-married, as contemplated by Section 41, and if such death takes place within five years after such marriage or re-marriage, pension be restored if and so long as the widow is in a dependent condition, and the final payment previously made under Section 41 be refunded in instalments as fixed by the Pensions Board, such instalments not to exceed 50 per cent of the amount of the restored pension being paid from time to time.

Re Lump Sum Final Cash Payments

(Footnote to Schedule "A" *re* Scale of Pensions for Disabilities

General Considerations as to Lump Sum Final Cash Payments

Provision for the above was introduced in 1920. Pensions rated at less than 15% were discussed by the Parliamentary Committees of 1919 and 1920. (1919, Par. Com. Proceedings, p. 201), (1920, Par. Com. Proceedings, pp. 11, 48, 67). The monthly pension for a single man was $3.00 for 5% to 9% disability and $6.00 for 10 to 14%. These small periodical payments caused vexation and discontent and it was decided to give the option of accepting a lump sum in final payment. It is immaterial now to discuss whether ex-service men or the Pensions Board took the initiative in suggesting this remedy. Some statements in the evidence were that it was urged by ex-service men contrary to the opinion of the authorities (St. John, 17, 123, 125; Calgary 28), but it seems quite clear from the proceedings of the Parliamentary Committee of 1919 (p. 201) and 1920 (p. 11 and 48) that the idea of the optional final payment was considered practicable and desirable both by members of the Committee and by the Pensions Board as well. Obviously there can be no room for criticising anyone who advocated this system which was accepted by everyone concerned in an attempt to promote satisfaction. The benefit was not all one sided however. There was the clear advantage to the Country in eliminating the expense of the examinations, and of the mass of accounting detail incident to the periodical payments. There was also the prospect in many cases of a substantial saving in the amount paid.

The lump sum payment was not computed on any actuarial basis. (Vancouver 95; Calgary 28). In one case disability which turned out to be permanent, and for which a pension of $7.50 per month (including wife's allowances) was being received, was settled by a final payment of $120.00. It is evident that for a man of 30 years of age permanently disabled to the extent of 10% and thus entitled to a life annuity of $90.00 (subject to possible reduction if the pension bonus were discontinued) the maximum of $600.00 would be a very inadequate present worth.

The Parliamentary Committee recommended final payment only in cases up to 14% pension (Par. Com. Report 1920, p. 11) and this was adopted by Parliament with the rider that if the disability increased, the pensioner might be reinstated on the monthly payment basis, but these payments were to be applied first to refunding the sum already paid. (Footnote to Schedule "A" to Pensions Act, Regina 127-8; St. John 127.)

The scale of lump sum payments was as follows:—

Where disability is permanent and pension is between 10 and 14%, the final payment is $600.00.

Where disability is permanent and Pension is between 5 and 9%, the final payment is $300.00.

Where disability may disappear and pension is between 10 and 14%, the *maximum* final payment is $600.00.

Where disability may disappear and pension is between 5 and 9%, the *maximum* final payment is $300.00.

Pursuant to this provision notice was sent by the Pensions Board to ex-service men with disabilities under 15% advising them of their right to the lump sum payment if desired. (Toronto 484, 488-9; Vancouver 102; Winnipeg 117, 118, 121). Some suggestion was made that the Pensions Board officials "induced" or "advised" the acceptance of the lump sum payment, but this is, the Commission finds, wholly unsupported by the evidence. (St. John 17; Vancouver 50, 98, 102; Winnipeg 120; Toronto 485.)

Where the disability was not permanent the Unit Pension Medical Examiners simply had to do the best they could in estimating the gradually vanishing degree of disability and its probable duration. (Regina 46; Toronto 484, Calgary 31). Assistance was obtained from instructions sent out by Head Office as a guide. Pensions Board Routine Order 216; Vancouver 50; Toronto 490; Calgary 32, 33). Report was then made to Head Office and the man was advised direct as to the percentage of his permanent or non-permanent disability, and was told that he had the right to accept a stated amount as a final payment. (Vancouver 50, 102; Toronto 484; Winnipeg 117.)

As was said on the hearing:—

> "It was a case of the country and the men gambling on the length of the disability, and in some cases it had turned out badly for the man and in others I suppose the country has paid more than if he had been put on a non-permanent basis and paid while the disability lasted." (Calgary 27.)

The trend of opinion at most of the hearings where the subject was discussed was that experience had shown that the soundness of the policy of lump sum payments was at least questionable, and at St. John (p. 123) and Vancouver (p. 97), the opinion was frankly expressed that the adoption of this policy had been a mistake. St. John p. 16, 122; Vancouver pp. 50, 98, 102; Calgary p. 27; Regina pp. 44, 48; Winnipeg p. 117; Toronto p. 482, 912.)

Suggestion by ex-service men

Re-open all cases of lump sum payments

> It was urged repeatedly that all these cases be re-opened and that if any disability exist, the pension be revived on a peridiocal payment basis making deduction for the cash payment received. (See references above).

This proposal the Commission does not recommend. For the authorities to take the initiative and do this would be in the great majority of cases to simply raise false hopes. Men would be led to expect some change to their advantage; whereas, in many instances the net result would be that they would simply be put back on their former $4.00 or $6.00 per month allowance, and for months and perhaps years, this small amount would be eaten up in refunding the cash payment already received.

Recommendation of Commission re lump sum payments

None

Suggestion by ex-service men

Do away with lump sum payments for the future

> That for the future the system of lump sum final payments be done away with. (St. John 123; Vancouver 97; Calgary 27).

While this was suggested at the hearings mentioned above, the representative of ex-service men at Winnipeg declined to express an opinion on the suggestion

without further consideration, 121%, and the fact that this drastic step was not more generally urged indicates that the principle of lump sum payments is not regarded by any means as wholly bad. There is nothing to show that the provision has not been beneficial to the ex-service man in the general run of cases. The complaint has usually arisen in cases where it was not the scheme which was at fault, but rather some lack of elasticity in the regulations which affected individual cases. The option of getting a substantial lump sum at once, rather than in trifling instalments, must in many cases be distinctly beneficial and the Commission considers that it should not be withdrawn without more substantial reasons than have been given. The real remedy is to improve the legislation so as to take care of cases of obvious hardship.

Recommendation of Commission re lump sum payments

That the system of lump sum final payments be continued with the modifications recommended hereafter.

Suggestion by ex-service men

Re-open final payments where error in estimating degree or duration of disability

That all cases of final payment be re-opened where the pensioner can show that in arriving at the amount offered him as final payment, the duration or the degree of the disability was underestimated. Winnipeg 119; Toronto 482).

For example: Supposing a man had synovitis (water on the knee) and the disability was rated at 10%. The Local Pension Medical Examiner estimated, as best he could, how long the trouble would continue. Supposing he reported to Head Office that it was gradually improving and that his opinion was that in two years it would have disappeared. Head Office, taking the estimate of 10% and of two years as a basis, fixed the amount of the lump sum final payment and advised the man of his option to accept a specified lump sum in lieu of periodical pension. The form of the letter sent to the Pensioner was that he had the "right to accept" a final payment in lieu of the pension then being paid and that it "appeared" that his disability was 10% "non-permanent" (no number of years mentioned). The notice then specified the periodical instalments to which he would be entitled if he continued on pension, and concluded by stating the amount of final payment which was "offered" to him. There was no compulsion about it, some men chose to continue the periodical payments, while of course the larger number took the lump sum.

No doubt, experience has shown that some men would have received more money in the aggregate if they had continued on periodical pension, trifling though it was, but that possibility was the chief thing to be weighed when deciding which plan to accept. The uncertainty was the very reason for making the scheme optional instead of imperative. It is equally probable that, in many cases, the settlement amounted to more than the pension which would have been paid. The benefit of the scheme was in its finality. It ended the bother of periodical re-examinations, and it did away with administration expenses which were necessarily out of all proportion to the amount involved; but more than this, it provided a fund of usable amount, it put a premium on quick recovery and gave the man an incentive to overcome his slight disability. It was in line with the principle of pensions legislation in other countries where disabilities under 20% are considered more suitable for final settlement than for perpetual pension.

In Great Britain, men with these minor disabilities are, with rare exception not entitled to pension, and have no alternative but to accept a gratuity payable in weekly instalments, for a period not exceeding three years. In Canada the scheme was not compulsory and only those whose disability does not increase

are precluded by the final payment. This very fact that the only exception to the scheme is where the disability increases, shows that it was understood to be final in all other cases.

No suggestion has been made that there was any lack of good faith in connection with the estimate of the degree or duration of the disability on which the offer of final payment was made.

Having regard to the circumstances leading up to the formulation of the scheme, and the intention of all those concerned in promoting it, the Commission cannot recommend the adoption of a suggestion which would in effect entirely disregard the basic features of the arrangement.

Recommendation by the Commission

None.

Suggestion by ex-service men

Gradual deductions to refund lump sum payments

That where, after final payment, the pension is derived, the absorption of the final payment should not be made at a rate greater than 50% of the monthly pension. (St. John 122; Regina 48; Calgary 30).

Following is an instance of the practice under the reinstatement provision of Schedule "A" — Supposing a married man had a 10% pension, ($90 a year) and he accepted a final payment of $300. At the end of one year he claims that his disability has increased. He is examined and it is found that his disability is 20%. This carries a pension of $180 per year. This increase in disability only dates, however, from the time of examination. He would be dealt with as if he had been on the 10% pension for the past one year. That would put to his credit $90. Against this would be charged the $300 lum sum payment leaving him in debt $210. He would then be credited each month with $15 per month (his new 20% pension) but nothing would be paid him for 14 months until the $210 had been refunded. The contention is that the man is incapacitated 10% more than the lump sum payment represented, and this his pension should not all be confiscated to repay the lump sum which might have been intended to cover three years. The whole of the first 10% should, of course, be withheld as that has already been covered by the Final Payment, but a portion of the remainder, if substantial, should, the Commission considers, be paid the pensioner.

Recommendation of Commission re Lump Sum Payments.

That provision be made so that in cases of final payment where pension is subsequently revived, the deductions from the current pension to refund the final payment previously made shall not exceed 50 per cent of the increase of pension, unless such increase is less than 10 per cent.

Suggestion by Ex-Service Men.

Pension not to be discontinued where pensioner has declined to commute, relying on statement that pension is permanent

That pension should not be discontinued where the Pensions Board has notified the pensioner of his option to accept final payment and has designated the disability as "permanent," and the pensioner has elected to continue the pension. (Winnipeg 118).

A case in Winnipeg, (117) illustrated the point. The man was advised (August 31, 1920) on the printed form used by the Pensions Board (p. 117, 121), that he had the right to accept the final payment in lieu of his pension, and that after examination of his medical documents it appeared that his disability was

ten per cent "permanent." The amount of final payment offered was $600. Presumably the man realized that a permanent 10 per cent pension ($6 per month if single and $7.50 if married) was better than a present payment of $600. He elected to continue the pension. About 2½ years afterwards, although the District Office pointed out that the man was shown "permanent" according to their records, Head Office ordered re-examination and pension was discontinued. (118).

The form used in this case was the regular p inted form of the Pensions Board and in cases which were not permanent the word "non" was inserted in the space before the word "permanent" (121). It was quite possible, therefore, that pensioners might be misled by this bald statement that the disability was "permanent." It was stated in evidence that a considerable number of cases were marked permanent and treated as permanent under the Regulation for final payment (Toronto 489). As a matter of pension regulation there is no such thing as a "permanent" pension in the sense that the Pensions Board is precluded from requiring a re-examination (Winnipeg 116-117); but the man cannot know this. He naturally assumes that the word "permanent" means that the instalments will be payable for life. In ordinary business affairs the party who represented that instalment payments were to be permanent and thus led the other to forego his right to a lump sum payment would be estopped from afterwards discontinuing these payments without reviving the lump sum offer. The Commission considers that the same right should be given to pensioners in these circumstances. Deductions should be made as provided in the footnote to Schedule "A" of the Pension Act.

Recommendation of Commission re Lump Sum Payments.

> That provision be made that in cases where the Pensions Board has notified the pensioner of his option to accept a final payment in lieu of pension and has designated the disability as "permanent" and the pensioner has elected to continue the pension, the latter shall not be discontinued without paying to the pensioner the amount of the final payment previously offered less the amount which has been paid since September 1, 1920, or since the date when an award of 14 per cent or under was made, whichever is later.

Re Pension Ratings Schedule.

Pension rates to be based on pre-war occupation

Suggestion by Ex-Service Men.

> That pension should be rated on the basis of loss of earning power of the applicant measured by his pre-war occupation. (Montreal 345.)

The argument was that the foundations of our present system of Pensions were laid when all soldiers were regulars, "who had no other profession than the profession of arms. They had no specialized instruction which had prepared them to exercise a determined profession when they were discharged and returned to civil life. It was thus quite natural that the laws and regulations applicable to these professional armies considered a dimunition of the working faculties without paying attention at all to the previous aptitudes of the wounded soldier to a determined profession or trade. They were making a gross estimation of his value as a non-specialized individual."

Further reason offered for the change was that the present Workmen's Compensation Acts award compensation on the basis of previous earnings, and also that in England provision has been made—although to a limited degree—for alternative pensions based upon pre-war earnings as compared with the present ability of the man to make a living. This principle was stated to have

been recently pressed by Senator Benazett in the French Senate, where it was being discussed with considerable interest.

When the Canadian Pensions Legislation was being framed, the introduction of this principle was discussed and was rejected for reasons which appear in the following extract from a memorandum prepared by those who had in charge the drafting of the Act:—

> "Upon what principles are scales of pensions made? How is the amount of pension to be decided? When the principle of gratitude formed the basis of the pension law, no set scale of pensions was ever made. A smaller or larger amount was given in accordance with the supposed value of the service rendered. When it came to be believed, however, that the pension was the payment of a debt upon contract, the amount of that debt had to be considered and scales of pension were made. One School argued that the debt should be calculated upon the basis of loss of earning power in the civilian capacity from which the soldier was drawn, in other words compensation for damage suffered. Another school considered that a soldier was a soldier. If through injury in the country's service he had become unfit to continue in his military capacity, he immediately became entitled to support, his compensation being gone. A third school took a more or less intermediate point of view. This school considered the soldier both from the point of view of his soldier-hood, and from the point of view of his civil life, and it asked the questions —What qualifications are necessary for soldier-hood? In civil life what class of persons has these qualifications? What is the soldier's rank at discharge? The answer was as follows:—The soldier brings to the service of his country the healthy mind and body of a man in the class of the untrained labourer. If he shows ability, he will gain a higher rank. If he shows none, he will remain a private. If he has not gained promotion he will return, upon discharge, to civil life with nothing more than the healthy body and mind he brought with him into the service. If he is not incapacitated he is as vaulable to himself as he was previous to enlistment. If, on the contrary, he is incapacitated, he has lost a certain degree of earning power, which is to be calculated only from the point of view of his earning power in the market for untrained labour. The earning power of a man in the class of the untrained labourer will be sufficient to provide decent comfort for himself and his family, that is to say a little more than enough for subsistence. The point of view of this third class has been adopted almost universally, and the scales of pension in the various countries have been calculated more or less in accordance with it."

This principle has remained fixed, and all Canadian (Great War) pensions are based on it.

Recommendation by Commission.

None.

Re children's Pensions

Suggestion by Ex-Service Men

Pooling children's pensions

> That where there is more than one child receiving pension, the pensions of such children be pooled and divided between, or for, the children in such proportions as the Pensions Board may consider just. (Regina p. 14; Toronto p. 666).

As the Schedule stands, $15.00 per month is definitely allocated for the first child, $12.00 per month for the second, and $10.00 per month for each of the others. One child may be in a home where little is required for its maintenance, another may be in an institution and another under the care of some organization. It does not seem desirable to put a premium on caring for the first or second child and thus indirectly discriminating against the third. No rule of thumb can quite meet the situation and the proposal seems advantageous.

Recommendation of Commission re Schedules "A" and "B."

That Schedules "A" and "B" be amended to provide that when there is more than one child the sum of the amounts payable to or for them for pension may, in the discretion of the Pensions Board, be distributed between such children equally or in such proportion as may be considered equitable under the circumstances.

Re Pension Bonus

Schedule "A" and "B"

Suggestion by Ex-Service Men

That the present bonus paid in addition to the Prescribed Pension be made permanent.

As is perhaps not generally understood Schedules "A" and "B" of the Pension Act fixed certain specified sums for Pension and later, on account of economic conditions, an increase was granted by way of a maximum bonus of 50 per cent. This bonus has been continued from time to time for limited periods. At every centre where the Commission met it was strongly advocated that this bonus be made permanent, or in other words that the minimum total disability pension be $900.00 instead of $600.00, and the minimum pension for widows be $720.00 instead of $480.00. The plea in support of this was everywhere substantially the same, viz., the high cost of living and the necessity of security of income for the future if the pensioner was not to be shut out from investing in a home, obtaining insurance, and various other arrangements looking to permanent provision for his family.

The theory upon which the Pension bonus was introduced, namely, that it was intended to cover a period of high prices which might be, and was hoped would be, transient, precludes the Commission from expressing an opinion as to whether or not it should be made permanent. Such a recommendation would pre-suppose that the cost of living would not decline below the present level, something of course impossible to foresee, but this does not remove the necessity of stabilization, nor meet the argument that without some degree of security for the future, commitments cannot now be entered into for the protection of the pensioner in his old age, nor for the protection of his family.

Recommendation of Commission

The Commission recommends that provision be made so that the present Pension Bonus will not be cancelled or reduced for at least five years.

Re Table of Disabilities

Suggestion by Ex-Service Men

That the table of disabilities be revised

Schedule "A" of the Pension Act fixes the amount of money payable for any given percentage of disability. Any injury or disease which can be accurately described, such as amputations, total blindness, &c., &c., have been rated as creating a certain fixed percentage of disability and this rating is continued

in what is known as the Table of Disabilities which is authorized under Section 25 (2) of the Pension Act.

In 1916, before the passing of the present Pension Act, a Table of Disabilities [Toronto 1189] was prepared by a committee consisting of a number of prominent medical men of Toronto and Montreal with an official who had been identified with Pension legislation from the beginning. It was revised in December 1917 by the Medical advisers of the Pensions Board and was submitted for criticism to various consultants and others familiar with Pension matters and in July 1918 the Table of Disabilities practically as now in use was adopted after consideration of the suggestions thus obtained. Since then there have been some minor changes but in most points the Table remains the same [Calgary 66, 1920 Parl. Com. Report p. 437]. This Table of Disabilities obviously must deal principally with injuries which can be accurately described and the effect of which will be identical in every case. This is not possible as to disease. The use of this Table as an exact guide for the rating of a definite percentage of disability as resulting from a given injury must be confined to a condition which can be so clearly pictured as to be visualized from the description, by a man who never saw the patient. The vast majority of such cases is amputations, and, as might have been expected, for this reason, requests for the revision of the Table of Disabilities came almost entirely from the Amputation Association representatives. The question which is immediately asked is how does the Canadian Table compare with that of Great Britain for instance. The answer is shown in the comparative Table of Disabilities which was put in evidence in Toronto (p. 1189A) and it can fairly be stated that, while the differences are on the whole not great, leg and foot amputations particularly are rated lower in Canada than in Great Britain. It is further pointed out that in Canada the disability from a leg amputation is more serious than in Great Britain because of the increased difficulty in walking through snow or on icy sidewalks which is encountered for several months of the year in most parts of Canada.

Another factor urged as not being fairly provided for is the additional wear and tear of clothing caused by artificial appliances. Nowhere has the Commission been able to find any satisfying evidence that this feature was considered in preparing the Table of Disabilities. In Great Britain a special allowance for clothing is made on application in individual cases where actual loss on that account is shown. A letter from the Pensions Board dated February 13, 1920, to the Secretary, Amputation Club of Vancouver, was put in evidence, one paragraph of which was

> "In the matter of wearing apparel there appears to be very fair cause for further consideration in all cases where pensioners must of necessity be burdened with an orthopedic appliance. It is felt that this matter should be dealt with along lines similar to the supply of surgical boots and appliances. Your communication is, therefore, being passed to the Department of Soldiers' Civil Re-establishment for consideration."

A letter from a Toronto surgeon was put in at Winnipeg (706) which cast some doubt on the probability of there being any serious loss on account of wear of clothing, but, without referring in detail to the evidence, the Commission is convinced that the claim has merits and is one of the matters which calls for reconsideration of the Table of Disabilities. Reference is made to the evidence at Calgary 170; Winnipeg 674, 705; Toronto 1155.

A further claim is made that the Table of Disabilities as at present framed is too rigid. The opinion of the Commission is that it contains too many fine distinctions and that, in amputations, too great importance has been attached to length, in inches, of the stump. This, in turn, has tended to magnify the importance of measurements in the eyes of the officials administering the Act. As an example, in case of amputations below the knee, the minimum is 40%,

but it is stated that up to 60% may be allotted. As a matter of fact very few such amputations receive more than 40% and in one Unit (Toronto) only three below-knee amputations receiving as high as 50% could be produced. (1,199). While, as has been said, length in inches of a stump may be used as a guide, the only common-sense rule upon which to base pension is not the length of the stump but its value to the pensioner. Take a thigh amputation: of what possible use is an inch or two of bone if the stump is too short for leverage and the man is therefore unable to wear an artificial leg? But the possession of that bit of bone cuts off 5% from the pension (Toronto 664). In the opinion of the Commission the ability or inability to wear an artificial limb should, rather than the length of stump, determine the assessment in a leg case. In amputations below the knee, if the stump is too short to exert sufficient leverage to swing the leg, or, if the scar tissue or other conditions which give rise to pain and discomfort are sufficient to prevent the use of an artificial leg, pension should be paid as for amputations through the knee. If, on account of shortness of stump above the knee, or the presence of some condition which precludes pressure, the stump is useless, pension should be granted as if the amputation had been performed at the hip.

The same criticism applies to forearm and arm amputations. Your Commission is convinced that in amputations above the elbow no use can be made of the stump except to hold an object between the stump and the chest wall. No satisfactory artificial upper arm has as yet been produced and, with few exceptions, such arms are never worn by arm amputations, except, as the men describe it, for dress purposes. In forearm amputations, length of stump sufficient for fitting and leverage is essential and of far greater importance than whether amputation is just "below the elbow," which entitles to 70% assessment, or "one and a half inches or less below the insertion of the biceps," which is rated at 65%. To attempt to differentiate in percentage between amputations and one and a half inches or less below the insertion of the biceps, and amputation through the elbow joint is an unnecessary refinement. The Table could safely jump the middle third to the elbow and thereby arrive at a standard which men suffering arm amputations could readily appreciate and understand. The English rule allows plenty of latitude and still is clearly defined. It provides: Amputation of leg below knee with stump exceeding 4 inches, 50%; amputation below left elbow with stump exceeding 5 inches, 50%. Anything above is regarded as an amputation through the knee or elbow.

Another reason advanced for revision of the Disability Table is that frequently, under the present practice, only 80% or 90% is awarded for more than one amputation (referred to as multiple disabilities) where the total of such disabilities, estimated separately, is over 100%. The method by which a rating of less than 100% for these cases is arrived at may be theoretically correct, but has given rise to considerable complaint. Take the case of a man with two legs off, one at the knee and the other below the knee. The former entitles him to 60% pension, the latter, 40%, a total of 100%. The Disability Table provides for "Loss of two extremities, up to 100%" but this maximum is seldom allowed. The pensioner is told: amputation of one leg at the knee entitles you to 60%, therefore, you are now only 40% fit. Amputation below the knee entitles you to 40%, but as you are already only 40%, we will only allow 40% of the remaining 40% which is 16%, and 16% added to 60% is 76%—say 80%. There are only 150 such cases in Canada, some of whom, it is true, may still have a slight earning power in the general labour market, but despite this and the mathematical method by which the final award is arrived at, your Commission feels that where the total of multiple disabilities is 100% or greater, 100% should always be awarded. The Canadian Table also provides only 85% for loss of a hand and foot. The English Table makes no distinction and permits no departure from the rule that loss of two extremities gives 100% certain.

Strong representations were made to the Commission that since the Disability Table had so largely to do with amputations, one member of the tribunal making the revision should be an amputation case having experience in wearing an artificial limb, and that opportunity should be given to the Amputations Association to make representations respecting the subject matter of the revision.

Representations were also made on behalf of the Blind that the helpless... allowance specified in the Table of Disabilities at $300.00 be increased to $400.00. The reason advanced for this is that a dependable guide cannot be procured for less. This matter will be further discussed in connection with other requests from the blind, but the Commission considers that the representations made constitute strong ground for favorable consideration in connection with any revision of the Disability Table.

Recommendation of Commission

The Commission is of the opinion that, while no radical change in the present Table of Disabilities is either indicated nor desirable, the necessary steps should be taken to examine and revise the Table of Disabilities in the light of the experience of the past six or seven years, with special reference to the matters hereinbefore discussed as well as any other matters which may appear to call for remedy.

Tuberculosis

Suggestion by ex-service men

That pensions granted in tuberculosis cases be stabilized at 100% for an extended period.

The subject of Tuberculosis among ex-service men will be discussed fully elsewhere, but the above request made by representatives of the Tubercular Veteran's Association at practically every sitting of the Commission is dealt with here as any favorable action would probably be considered as involving an amendment to the Pension Act.

Rightly or wrongly, every representative of the Tuberculosis Veterans' Association is convinced that if adequate pension were granted and fixed for a period of at least two years, the patient being placed upon his own resources and no further responsibility accepted by the Department, except examination at sufficiently frequent intervals to insure proper advice and treatment, a considerable amount of money would be saved and the pensioners placed in a much more favorable position.

It has been contended and much emphasis has been placed on this, that security for the future and peace of mind of the pensioner can only be brought about by the latter knowing for a long period in advance just how much money he can count upon receiving. Instead of being isolated he could return to his family, where the risk of infection is so slight as not to seriously enter into consideration, and he would have the opportunity of training and moulding his children, together with the companionship of his wife. He could much better plan his financial future. It would be unnecessary to live in a city, where living expenses are high and the risk of inter-current infection great. He might purchase or rent a small place in the country where he could undertake some form of light employment which would permit him to work or rest as his strength dictated, a condition impossible to secure if he were forced to enter into any competitive occupation. On discharge from Sanitarium, if the disease is clinically active, pension is invariably awarded at 100%, for six months and no reduction of more than 20%, is made at any one time thereafter. Even this 20% reduction is not imposed in the great majority of cases. The Pensions Board has drawn, at the request of the Commission, 100 fyles in which a pension

of 100% was awarded on discharge, and in which the pension being paid after a lapse of two years was calculated. It is found that the average pension to a man who was a total disability on discharge, is still, two years later, 90.26% which may be regarded as showing an average of about 95% for the whole two years. The Commission has had the opportunity of visiting seven sanatoria, meeting the patients and discussing and observing various phases of the work among the Tubercuious at first hand. The Commission has further had the benefit of discussion with Sanatoria Superintendents and T.B. Specialists and besides this has heard the evidence of two of the outstanding authorities on Tuberculosis in Canada.

In connection with this Suggestion it has been shown to the satisfaction of the Commission that, if adequate pension were assured for a sufficiently long period in advance, many cases now in sanatorium could, without risk to themselves nor danger to their families, return to their homes.

The Commission has endeavored to get information on the point as to whether applications for re-admission to Sanatorium are increased as a result of pension being reduced. There is nothing sufficiently definite on which to base a reliable conclusion. The Commission does point out, however, that it can be reasonably expected that the maintaining pension at 100% will at least remove any possible financial inducement to re-admission. The Commission also feels that the therapeutic effect of freedom from worry and dread of a cut in pension must show itself in less re-admissions. As the maintenance of a patient, in a Sanatorium, with pay and allowances, costs at least twice the amount of 100% pension, every Sanatorium patient who (having once received the requisite training as to the nature and care of his ailment) is enabled to leave or remain out of the institution means a distinct saving to the Country. If the patient is not cured at the end of a two year period, then he is probably a chronic for life and will require a permanent total disability pension.

Recommendation of Commission

The Commission recommends that such provision be made that on discharge of from Sanitorium of pensionable T.B. cases showing the presence of Tubercle Bacillus in the Sputum, or, if this cannot be demonstrated, in cases proved by X-Ray examination, if moderately advanced and clinically active during the period of observation, pension shall be awarded at 100% for a period of at least two years. (Reservation at end of Report.)

Re Jurisdiction of Federal Appeal Board

(1923, C. 62, S. 11 (1))

"Section 11 (1)..... an appeal shall lie in respect of any refusal of pension by the Board of Pension Commissioners on the grounds that the disability resulting from injury or disease or the aggravation thereof or that the injury or disease or the aggravation thereof resulting in death was not attributable to or was not incurred during military service".

The Commission made certain recommendations on this subject in its Report No. 2. These recommendations have in part been adopted in the amendment above quoted.

The question as to what cases should be heard by the Federal Appeal Tribunal was reported on by a Select Committee of the Senate. As appears, the question discussed was whether there should be appeals on both "entitlement," (right to pension) and "rating" (amount of pension) or whether the appeals should be confined to "entitlement" alone. The recommendation of the Committee favoured the latter course,—

> "The Committee recommended that this Board shall have jurisdiction in cases of entitlement only. The question of entitlement is the

larger question and is dealt with at considerable length in the report of the Royal Commission. There is the further question of the dissatisfaction in ratings of pensions after entitlement is admitted. The evidence laid before the Committee would seem to indicate that the question of rating is normally, if not wholly, a question of medical testimony. It is thought that if the Board of Appeal were to engage in discussing questions of rating it would seriously interfere with the work of the Board in determining questions of entitlement. Your Committee, therefore, think that it will be well to leave the matter of rating as it now is and confine the appeals to be brought before the Board of Appeal to the question of entitlement only".

Entitlement includes not only the question as to the connection of the disability with service but also the question as to whether the applicant is within the class of persons for whom the Act provides.

The Section before quoted is much narrower than the recommendation of the Committee. The Section only permits appeals on one element of entitlement, viz., the connection of the disability with service.

The jurisdiction of the Federal Appeal Board thus limited, excludes not only all review in respect of assessment but it also prevents appeals such as those of widows, widowed mothers and parents refused under the provisions of Section 34 (1) and (3), children under Section 21 (1) and (2), and the soldier himself under Sections 12 and 13.

This is referred to in view of the possibility that, in specifying the cases to be dealt with by the Federal Appeal Board, it was assumed that decision as to attributability included all questions of entitlement, and to ensure that it is not overlooked that there are many grounds on which pension may be refused, even though the disability or death was connected with service. As the Act stands now, if a pension is refused on any of these other grounds there is no appeal.

PART TWO

SOLDIER SETTLERS

Carefully prepared and well digested statements on this subject were presented to the Commission, particularly in the West. Except as to the matter of revaluation, these statements had to do with specific suggestions for improvement of conditions in matters of detail and these are the things to which the Commission has confined its attention. It was not considered that they called for any general inquiry as to the success or failure of the salient features of the scheme or of its administration. The Commission has had to approach the suggestions made with practically no first-hand knowledge of conditions, and the conclusions reached necessarily represent a wholly detached view of the situation derived primarily from the evidence and the discussions to which the Commission has listened. The Commission has, however, considered that its main function on this subject was to bring together and discuss the evidence produced so that there might be on record for future consideration a resume of the case made by the representatives of the soldier settlers.

Soldier Settlement was introduced as a means of effecting increased settlement on the land by a system of state aid confined to ex-members of the Canadian, Imperial, and Allied Forces. Canadian soldiers in this way were given another means of re-establishment. It differed, however, from all other re-establishment measures, in that it was not instituted as a means of compensating ex-soldiers for disabilities resulting from war service, nor of granting them aid in accordance with the extent of such disabilities, as is done in the matter of pensions, treatment and vocational training. It is based, rather, on the ability of the ex-soldier to make good as a land holder.

The Soldier Settler has been given financial and other assistance, such as has been accorded no other settler on the land. Capital is provided by the Government at a low rate of interest, and no charge is made for the appraisal of the land, legal costs or other expenses. Once established, every help is given him through District Offices, Field Supervisors, etc.

The present condition of soldier settlers must of course be considered in the light of the general agricultural conditions from the time of re-establishment to date. It is authoritatively stated that during the past three years there have been more abandonments by civilians than soldier settlers and that seventy-five per cent of the soldier settlers have, by patience, diligence and hard work, been overcoming the handicaps of the general agricultural depression. Of the other twenty-five per cent the larger portion have been handicapped by personal or family illness, or by poor land, or crop failures, and in most cases personal factors and failings have contributed to the lack of progress.

When further considerations or concessions are considered, it should be not because of these twenty-five per cent who have more or less failed to overcome the conditions common to all, but in the light of the fact that seventy-five out of every hundred holders have made substantial progress. They are the settlers who truly represent the situation and who merit every reasonable consideration.

Suggestion by Ex-Service Men

Appeal or Adjustment Boards

The establishment of local or appeal boards with power of final decision for adjustment purposes. (Vancouver 409, 411, 429, 445, 449, 463; Calgary 273; Winnipeg 493).

While the necessity was stressed of providing some means through which settlers' grievances as regards the Settlement Board's decisions could be remedied, there was considerable divergence in the methods suggested but they all involved the intervention of an independent tribunal or Board.

Some proposals went so far as to suggest that the decision of such a Board on the matters within its scope should be binding on the Soldier Settlement Board. In Vancouver (409) and in Calgary (273) the tribunal suggested was called an Appeal Board. In Winnipeg it was suggested, apparently as an alternative proposal, that the settler have a Soldiers' Friend (519). In Vancouver and Winnipeg the suggestion was made that in the selection of the personnel of the Soldier Settlement Board the desirability of having some one entirely familiar with Western conditions had not been fully recognized. (Vancouver 129; Winnipeg 517).

The sum of the discussion at these different places was that the soldier settler desired some intermediary so as not to feel that he was entirely in the hands of the officials, but the scope of this intermediary's intervention was to be principally on the question as to whether, under a given set of circumstances, the settler should go into temporary or permanent salvage, that is, whether he should be allowed to suspend payments and keep on operating the farm in the hope of ultimate recovery, or should be finally and definitely closed out. (Vancouver 445; Winnipeg 493).

It was admitted that there was no wide unrest (Vancouver 448) but that there was a feeling among the soldier settlers of need for improvement in present conditions, and the Appeal or Adjustment Board was proposed as the remedy. (Vancouver 449). In British Columbia it was claimed that the present unfavourable conditions arose, to some extent at least, out of a too vigorous collection campaign in 1920. (Vancouver 462, 463).

The Commission does not feel called upon to go into the merits of this campaign. The situation was that about 1,900 settlers had been taken on up to the autumn of 1920, and the necessity for impressing these settlers with the fact that they were undertaking definite contract obligations was apparently in the mind of the Settlement Board. The Commission does not consider, however, that the instructions issued at that time indicate any overstepping of the true functions of the Settlement Board, neither does the Commission find any evidence that the action taken at that time is the cause of conditions calling for remedy now.

It was frankly stated that there was no criticism of present-day methods but that the Adjustment or Appeal Board was sought with the fear in mind that there might be a possible recurrence of the 1920 attitude. (Vancouver 462, 463; Calgary 259).

It was contended that conditions in British Columbia were essentially different from those in other provinces and were not clearly appreciated in administering the Act. (Vancouver 408, 411, 429, 452, 463).

An enumeration of these special local conditions as extracted from the evidence includes the following:—

(1) The special adaptability which was claimed for British Columbia in respect to small fruit farming and other operations requiring a much smaller area than that ordinarily dealt with under the Soldier Settlement Act. (Vancouver 385, 436).

(Note: A somewhat detailed investigation was made by a British Columbia official of the Settlement Board and by a Department official from Ottawa, whose findings were concurred in by a British Columbia man who was apparently regarded on all sides as an authority, and the report showed, the Commission thinks, that generally speaking the Settlement Board had a thorough appreciation of the possibilities in British Columbia and of the conditions necessary to their successful exploitation (Vancouver 408);

(2) The heavy floods in the Fraser Valley and the bad weather conditions in the interior during 1920 (Vancouver 408);

(3) Extremely bad market conditions in 1921 (Vancouver 408);

(4) The fact that 1922 brought the longest drought in the histroty of British Columbia (Vancouver 408);

(5) The fact that partially handicapped men from other provinces were attracted in large numbers to British Columbia on account of its climate, thus imposing an extra load on the machinery in looking after applicants for loans under the Soldier Settlement Act (Vancouver 458);

(6) The delay in establishing the British Columbia Offices and the consequent abnormal rush and possibly less thorough investigation of applicants in 1920 (Vancouver 407).

The Commission was impressed with this unusual combination of conditions in British Columbia and considers that these conditions may call for the exercise of the discretion of the Settlement Board along lines which may be at variance with, or at least a departure from, the policy practiced elsewhere. Undoubtedly special conditions call for special consideration, but that does not necessarily support a proposal for the intervention between the Settlement Board and the soldier settler of an entire stranger in the person of an Adjustment or Appeal Board.

The relations between the soldier settler and the Settlement Board are essentially contractual and in this they differ in a very marked degree from the matters which are the subject of pensions administration. To justify the radical course of imposing on either party to the contract, the view of an outside tribunal on the question as to whether the express terms of the arrangement are to be lived up to, would require strong evidence that there is injustice which is irremediable under present procedure. Such evidence is entirley wanting.

In the first place there exist methods of checking the Settlement Board's activities. Under the Soldier Settlement Act, the Board is only the agent of the Crown. In cases calling for relief from what are considered to be drastic rulings, direct application may be made to the Minister of Immigration and Colonization. Special cases may also be dealt with on Inquiries authorized by the Settlement Board under Section 55 of the Act.

In the second place there is no evidence of undue severity. The question which it was suggested should be decided by an Adjustment or Appeal tribunal was whether the settler should go into temporary or permanent salvage. The impression might be that the Soldier Settlement Board exercised the functions of a mercenary collection agency. The evidence at Winnipeg was that ninety-nine per cent of the cases which went into salvage did so voluntarily. (Winnipeg 486.) This does not mean that the voluntary action was not at times induced by the attitude of the Board in requiring payments, but the evidence showed that the Settlement Board had only received payment of all instalments due from about one-third of the settlers (Vancouver 436; Winnipeg 486), and further that another third had only made partial payments on their instalments and any amount no matter how small, was considered as a partial payment. The remaining third had made no payment whatever. This forbearance was in addition to the exemption from interest which had been granted as a result of the recommendation of the 1922 Parliamentary Committee (1922 Parliamentary Committee Proceedings, p. XXXV).

The attitude of the representatives of the Settlement Board who appeared before the Commission was all which the Commission feels could have been asked of men who had a responsibility both to the settler and to the State, and there was no indication of any intention to do otherwise than encourage the settler in every possible way to continue his endeavour towards successful and permanent settlement.

The Commission approves the principle of giving the settler the benefit of the services of a Soldiers' Friend. (Winnipeg 519.) This does not disregard the contractual basis of the parties, but the settler is assured of an opportunity of referring his difficulties and his rights to an interested and sympathetic adviser and advocate.

Recommendation of Commission.

As to Appeal or Adjustment Boards—None. The Commission recommends, however, that such arrangements be made that Official Soldier Advisers appointed by the Department of Soldiers' Civil Re-Establishment be qualified and authorized to deal with and for soldier settlers where so requested.

Suggestion by Ex-Service Men.

Collateral Security

That greater latitude be given to the settler in dealing with such of his private property as has not been purchased for him by the Soldier Settlement Board. (Calgary 269; Winnipeg 475, 496; Halifax 343.)

Section 32 of the Soldier Settlement Act empowers the Board to require, "if the Board considers the security otherwise insufficient," that the settler who obtains advances shall furnish security on any property owned or held by him. Section 34 (1) also authorizes the Board to require the execution of a mortgage securing any charge imposed by the Act or agreed on between the Board and the settler. Section 31 also prohibits any alienation by the settler of property which is charged in favour of the Board so long as any amount remains due to the Board. Section 18 specifically charges the settler's own land and the increase of his stock as security for loans made for stock and equipment.

There are thus two cases in which the settler's own personal property may be charged: (a) The increase of stock is automatically charged by Section 18; and (b) Other personal property may be charged by specific mortgage when required by the Settlement Board as additional security.

The argument is that the settler in thus tying up his property is hampered in trading and in obtaining local credit. (Calgary 269; Winnipeg 475, 496; Halifax 343.)

The facts are that the policy of taking additional security is gradually being abandoned. In Calgary the evidence was that in only two cases, out of the last hundred loans made, was additional security taken. (Calgary 255.) In Winnipeg, out of 2,820 loans, additional security by way of chattel mortgage was only taken in 273 cases, i.e., about 9 per cent. The evidence is that the settler is given permission, under any reasonable circumstances, to dispose of personal property if it does not endanger the security. (Halifax 344; Calgary 274; Winnipeg 480.) The proposal was made at Calgary (271, 293) and at Winnipeg (479, 480) that it be definitely understood that a settler should be entitled to deal with $500 worth of personal property free from the security of the Board. It was recognized in presenting the proposal that such a rule could not be laid down unconditionally, and it was proposed that in order to be entitled to this privilege the settler should show that he had lived for a reasonable time on his farm and complied with the regulations, and that the giving up of the right to this $500 worth of stock would not jeopardize the security of the Board. (Calgary 273, 294; Winnipeg 479, 480.)

The proposal made is, in effect, very similar to the present practice. The only difference would be the existence of an express regulation under which the settler could be assured that on complying with definite conditions he would receive a release or certificate of exemption of $500 worth of stock. Section 18

is, the Commission considers, sufficiently wide to enable the Board to thus release property en bloc.

Recommendation of Commission.

The Commission recommends that a regulation be adopted recognizing the right of the settler to apply for and receive a release or exemption certificate as to personal property to the value of $500 where at leas one year has elapsed and all payments have been met and regulations complied with, and it is shown to the Board's satisfaction that the value of the remaining security will continue to bear a proportion to the amount due on the loan at least as great as at the time the loan was made.

Suggestion by ex-service men

Right of settler to be repaid portion of his investment in case of salvage

That where the settler gives up, and the property is sold, the settler should receive a proportion of what he has paid in for machinery, stock and for his deposit. (P.E.I.—St. John 94).

There are cases of real hardship where a man has invested his small amount of capital and has lost it all. These cases where there has been a genuine effort towards success deserve every consideration. From the facts, it would appear that the most which has been done is that the Settlement Board has not called on the Soldier to make good any deficit between the amount for which the property is sold and the amount which he has borrowed. The evidence at St. John, Winnipeg and Calgary was to the effect that in the majority of cases there has been no deficit and that the property has realized more than the amount against it, in which case the settler is given the benefit of any surplus.

Having regard to the contractual relations of the parties and the responsibility which the soldier settler takes in common with the Settlement Board, the Commission does not feel that it is justified in recommending any general regulation or practice whereby, notwithstanding there may be a substantial deficit, the settler will receive a proportion of the proceeds of the sale. The Commission believes that in a deserving case real hardship can be met through special adjustment by the Board.

Recommendation of Commission

None except for consideration by special adjustments in exceptional cases.

Suggestion by ex-service men

Terms on which settler is given permission to sell property

That permission to sell property be granted more readily and on more generous terms as to the settler sharing in proceeds of sale. (Halifax 350; Winnipeg 487, 494).

There are instances in which the land purchased has proved to be of special value on account of unsuspected mineral deposits. From the evidence, the Commission considers it can fairly be concluded that the Settlement Board does and will give permission to the settler to make sales of property which are manifestly for his benefit and which will provide him with some ready money, so long as the security of the Board is not depreciated and so long as reasonable amounts are applied by the settler in reduction of the loan. One opinion expressed in the evidence was that there was danger to the settler in too much credit. (Winnipeg 475, 487, 494, 495, 497.)

The Commission considers that the regulations now in force and the policy of administration ensure to the settler the benefit of a fair proportion of sales of property consistent with the preservation of the security.

Recommendation of Commission

None—in view of the present practice.

Suggestion by ex-service men

Revaluation

That there be a general revaluation of lands purchased by soldier settlers (particularly in years 1919 and 1920) with a view to writing off subsequent deflation resulting from general economic depression. (Vancouver 445; Winnipeg 498-517; Montreal 575; Calgary 257, 272.)

The claim is that land was bought at abnormal prices in 1919 and 1920 and that the soldier settler has constantly over his head the discouraging effect of a capital liability, which has, by the deflation in prices, become quite out of proportion to the actual present value of the property which, if it were disposed of at the moment, would probably, in most instances, bring considerably less than the price paid by the soldier. The position, however, as it appears to the Commission, is that the handicap is more contingent than actual. The value of the farm is not to be taken as of this or any arbitrary date for the purpose of measuring the loss or profit of the soldier farmer. The farm is bought to be worked and paid for gradually. The only definite date for testing the improvidence or otherwise of the bargain is the date on which the purchase was made. At that time the settler himself, who was assumed to have some knowledge of the value of farm lands, decided that the farm was worth the price and in this the best available judgment of the Settlement Board officials concurred. If the subsequent fluctuations in value are to be looked at to see whether the bargain was a good one, then the date which is at least as important as any other is the date when the farm is to be actually and finally paid for, twenty-five years hence. At least, it cannot be said that the price was too high until the average value of the farm in the market year by year during the period of payment has been ascertained. Possibly the settler may in some certain year be paying interest on a larger amount than it would otherwise have been necessary to invest in that particular year to secure the production obtained, but the next year values may have so increased that it would be impossible for him to go into the market and find a farm of equal productive value, except at a much higher price with the consequent higher annual interest charge. It follows that if the right to readjustment in valuation were admitted, it would not be possible to make it until considerable time had elapsed in which to determine from the fluctuation in values a basis on which the revaluation were to be made. No possible injury could result from the delay. On any reasonable basis of values there will be instalments payable for a long time to come, and if a readjustment were found necessary in the course of a number of years there would still be ample instalments from which any reduction could be made. The figure mentioned for general deflation was roughly 30%, Winnipeg (510, 499) but a qualifying statement was made that the average deflation on farms still in the hands of settlers—

> "would not amount to anything like that. For instance there would be farms where they would not have to make any change, at least not a change of more than five or possibly ten per cent." (512).

The average loans on farms was $1,600 (462). Assuming even a 30% deflation in the loan on the land, there would be an overpayment, until revaluation, of possibly $35 per annum, and if there were a readjustment eventually, any annual

overpayment made previously would automatically reduce the final indebtedness.

But even assuming that the original price had to be compared with present values and some adjustment made, Parliament on the recommendation of the 1922 Parliamentary Committee (1922 Parl. Com. P. XXXV) provided for:

(a) Putting stock and equipment loans on a 25 instead of a 20-year basis, notwithstanding the non-permanent nature of the property represented by these loans;

(b) A consolidation of arrears up to April 1, 1922;

(c) Total exemption from interest payments for 4 years for 1919 settlers, for 3 years for 1920 settlers and for 2 years for 1921 settlers.

This exemption was not an inconsequential concession. It represented in many cases a complete cancellation of interest amounting to about 16% of the principal sum, or in other words by spreading it over the 25 years, it meant that the interest-bearing principal was reduced by 16%. This adjustment was regarded by the great majority of soldier settlers as a practical benefit, at a very opportune time.

It is only fair to remember that the effect of the proposed revaluation is to ask the Country to agree to forego its claim under the terms of a solemn contract admittedly much more liberal than would be entered into by any private interest, and that the settler was himself satisfied as to the value of the land which was the basis of the contract and the security for the loan.

The Commission fully recognizes the great impetus in the development and colonization of Canada to which soldier settlers are contributing, and it is also convinced that Settlement Board officials are fully aware of the importance of their work both in the settlement of the Country and the re-establishment of ex-service men. It must not be forgotten, however, that the Soldier Settlement Act is not by any means an exclusively re-establishment measure. If it were, then soldiers in many other vocations would be warranted in complaining that discrimination was being shown in favour of the farmer class. One of the principal justifications for the special provision for soldier settlers as against other vocations is that it is a two-sided contract, under which the State has definite rights and receives unmistakable benefit.

From the evidence given it is by no means proved that there has been a permanent depreciation in values. The reference to revaluation in Quebec arose out of a special situation on account of some badly bought farms in the early days of the Act (561 and 576.) There was also an individual instance of stock for which too much was paid (563). The stock and implements were stressed more than the farms (575-576). The impression left by the evidence was that the exemption from interest provided for in 1922 pretty well met the case (577). The situation in Quebec would, the Commission considers, be fairly provided for if the Settlement Board investigated any specific complaints and considered for readjustment any case where it was found that the settler had been misled into paying exorbitant prices by some fault of the officials. There was nothing to indicate any necessity for a general revaluation.

In Vancouver, (445) the opinion was definitely expressed by the representative of ex-service men that "the question of land values will adjust itself as conditions improve." It was rather the general depression which was regarded as affecting the position of settlers adversely. The evidence goes on (445):

> "Our settlers have faced these three difficult years and while land values have not dropped to a great extent the value of produce has seriously affected their position."

In Calgary, the representative of the Soldier Settlement Board gave it as his opinion that land values had not depreciated but simply that their saleability had decreased and that this was only a temporary condition (257).

In Winnipeg, the presentation of the case was much more comprehensive. It was accepted that the value of land was based—

> "on its productivity and carrying power when developed to a reasonable extent."

It was also recognized that the value of land could not be determined by its record for one year, but should be considered over a period of years, and the value of the products, less operating expenses, should be regarded as the interest on the investment (499). The evidence dealt specifically with comparative values of commodities in which the settler was interested, but the evidence as to land values was very general. Tables were presented showing comparative prices of commodities before the war and in the years 1919, 1920, 1921 and 1922. These tables covered produce (500), wheat and oats (501), equipment and implements (502), lumber (503), freight rates (503), comparative purchasing power of farm produce (504), and the contention was made that, despite improved crop conditions, the purchasing power of farm produce was still on the decline (504). The Commission did not consider these statistics as directly relevant on the main point which was as to whether the settlers' land had permanently decreased in value and, if so, whether that loss should be borne by the Country, but these figures were useful in showing some of the existing conditions which had contributed to the settlers' anxieties.

On the question of the comparative values of land, and the permanency of any depreciation, the evidence is not sufficiently certain to justify any assured conclusion. The general statement which formed the foundation for the whole contention as to necessity for revaluation was:

> "During the years 1918, 1919 and 1920, and part of 1921, the farm lands of Western Canada were sold at prices never before dreamed of, and which are not likely to be realized again for many years so long as the land is not of value for other than agricultural purposes. These farms cannot now be made to produce sufficient to carry the great burden of debt accumulated as a result of purchases made during the period of abnormal prices." (Winnipeg 499).

It was stated that on the Portage Plains where prices were $100 an acre in 1919-20, the lands could be bought to-day for $50 to $60 an acre, (508) and that the same thing applied to the Dauphin District (508). It was admitted that if the prices of 1919-20 were to come back there would be no necessity for an adjustment, but it was stated that there was no hope whatever of their coming back (508). Again, the evidence of the selected representative witness dealing with this subject was:

> "I do not think that in the West there is the opinion that land values will be restored for years to come. It will not be in our times, unless there is another war." (514).

This was pratically all the tangible evidence which was given as to the permanency of depreciation in values. The evidence by the representative of the Settlement Board was that 154 farms which had been salvaged were sold and that they cost, including the initial payment made by the settler, plus the permanent improvements put on them, $563,298.86. The aggregate sale price was $558,851.26, and shows a depreciation on the farms of $4,447.66 (514). It was suggested that obviously those which were sold would be the best farms (514), but it was said that this was not always true, and that no less than 200 farms owned by the Board had been considered sufficiently good to be taken under lease during the previous summer on the usual profit sharing basis (515).

The evidence already referred to (499) recognized the inaccuracy of arriving at a value for the land, except by taking its record for a period of years (499). The suggestion, that in view of this it was too early to arrive at any conclusion

as to revaluation was met by the contention that the discouraging effect on the farmer, who carried at least a nominal indebtedness out of proportion to the present productivity of his farm, would result in the settler abandoning further effort and the holdings consequently being thrown back on the Settlement Board which would have to find a fresh purchaser for the land, and bear the expense of salvage operations and of re-settling the new farmer and almost inevitably have to write off any resulting loss. (Winnipeg 499, 504, 505). The case was put as follows:—

> "A number of soldier settlers in this province have already abandoned their holdings and, although of the farms that have been taken back by this Board in this Province, some have been sold at their cost price, many have been sold at prices considerably below cost, and a great many more are still on the hands of the Board with little prospect of selling them at anything like cost.
>
> "A large number of the settlers still on the land in this province are considerably in arrears, and their present prospects are far from encouraging. Under existing conditions the prospects are that an appreciable percentage of these will have to abandon their efforts sooner or later. The vast majority of these men have nothing but what is invested in their farms; they are desirous of making a success of their undertaking, but should they through being unable to earn a livelihood and pay their way, be compelled to relinquish their holdings back to the Board, then the Board would have to find a fresh purchaser for the land and would be only able to secure the market price for the land, stock, etc., and would have to write off the loss. They would have the expense of salvage operations, and the work of securing a new settler. In view of this, would it not be better to have a complete readjustment with the man now on the land, take the loss now, and retain these worthy settlers where they will be an asset to the country generally? . . . . .
>
> "It seems to me that from a purely business viewpoint and from the viewpoint of colonization, this is the only sound and practical solution of this grave situation."

The conditions described have already been encountered elsewhere, and a statement by Premier Massey of New Zealand was quoted at Vancouver (443) as an example of the practical steps which were urged as necessary to afford relief. The statement was as follows:—

> "The Government, in these difficult circumstances,—(that is referring to the depreciation in value of stock and equipment and farm products) has proved itself an exceedingly generous landlord. Its first step was to authorize the Land Boards, which are composed of practical farmers, to postpone the payment of rentals and instalments where sufficient cause was shown.
>
> " 'No man who is a tryer is going to be put off his farm,' said Mr. Massey. 'I tell the soldiers to stay on their land and do their best. The Government is not going to see them fail if there is a reasonable method of helping them through this passing trouble.'
>
> "These concessions have eased the situation. But it has been apparent all along that some of the soldier settlers would have to have their capital values reduced. The Government, in other words, would have to write off some part of the money that it had paid for the land. The Ministers have admitted that this measure would be necessary in cases where the productive value of the land, on the basis of reduced prices, was less than the price paid when the land was bought for the soldiers. But they have argued, very reasonably, that the Government should not be asked to make this adjustment in haste. Produce prices

fell in 1920 to an exceedingly low level and have since been moving up again gradually. Wool and meat are still increasing in value.

"The soldier farmers, however, are not to be kept in suspense much longer. The Government has made the first step towards the adjustment of the land values by appointing a number of practical independent farmers to visit the farms and make recommendations. Every soldier on the land will be given an opportunity to state his case to one of these men. The inspecting farmers will confer with the Land Boards, and recommendations will be placed before the Government. The final decision will rest with Parliament, but there is no doubt that the representatives of the people will endorse whatever action the Government proposes. New Zealand may lose a million or two but it will gain thousands of contented producers."

The subject of Soldier Settlement only comes within the purview of the Commission in an accidental way as related to existing re-establishment needs.

While the Commission makes such recommendations as it considers warranted by the evidence on certain minor phases of the subject, it realizes that the far reaching effect of a decision as to revaluation requires close knowledge of local conditions, experience with agricultural and settlement matters, particularly in the West, and a detailed and critical examination of the financial operations and outlook of the whole project. The Commission has primarily and principally to do with matters of pension and re-establishment of the disabled and their dependents and does not consider itself in a position to make any definite recommendation, especially when the proposal involves a declaration of a new principle of general national policy rather than the working out of details and improvements in connection with a policy already laid down.

The Commission therefore submits the foregoing summary of the evidence given and contentions put forward and calls attention to the following considerations:

(a) To compare prices paid for the land with the values as of any arbitrary date, except the date of purchase, would not be an accurate criterion as to whether the bargain was a good one. A fair test would be the value of the land on an average during the 25-year payment period. The evidence affords no information on which to base a prediction as to when or in what degrees land values will fluctuate.

(b) If, after an experience of years, a capital loss is clearly indicated, the question as to whether the State shall bear the whole or part of the loss can then be determined and, if decided affirmatively appropriate action can be taken for a readjustment on instalments still unpaid.

(c) There is, however, a consideration which may be less logical than the foregoing, but will probably be found to be more practical, and that is, that the discouraging effect of having a large capital debt over his head for a much greater sum than the present value of the farm, may lead the settler to give up rather than take chances on an uncertain future. Thus, the country may lose the colonization benefit which the scheme had in view; it would also, almost inevitably, lose the amount of any depletion in value and be put to the trouble and expense of getting a new settler. To obviate this contingency, it may be desired to assure the settler that, in case capital loss is demonstrated eventually, some reciprocating adjustment by way of forbearance of interest or otherwise will be made by the State. This could be done by a declaration of principle, leaving the question as to whether there has been a loss, and the amount, if any, to be determined after the necessary lapse of time.

Suggestion by Ex-Service Men

Extending the Act to cover those who served in Canada only

That the Act be amended to include those who served only in Canada. (Halifax 326; Winnipeg 517; Vancouver 400).

Of those who served in Canada, only men who incurred some pensionable disability in service are at present eligible for loans under the Soldier Settlement Act. As was pointed out in the evidence, if the Soldier Settlement Act is to be regarded as primarily a settlement project with a collateral benefit to ex-service men, there seems no good reason why the experience and efficiency of soldiers who remained in Canada should not be taken advantage of. Many of those who undertook military service during the later months of the war, as well as soldiers held on instructional, transport or other necessary work in Canada, were sons of farmers or were experienced agriculturalists and would undoubtedly constitute excellent agencies for land settlement. The proposal involves a large additional financial commitment and the consideration of Parliament as to whether what has already been accomplished justifies further extension of the principle of the Act.

Recommendation of Commission

From the standpoint of re-establishment the Commission considers there is no objection to the proposed extension; apart from that, the question is one of policy respecting colonization depending in part on whether the results already obtained warrant further commitments.

Suggestion by ex-service men

Vendor's warranty of fitness of land

That the vendor of property to the Soldier Settlement Board, for a Settler, be required to give a warranty as to the condition of the property. (Halifax 327; Winnipeg 481).

The recommendation in Halifax had to do with personal property, particularly cattle, and was to the effect that these cattle should be warranted free from tuberculosis or that the vendors should sell them subject to the tuberculin test.

The recommendation in Winnipeg was as to the condition of the land—that it be free from weeds and stone, that the sub-soil be suitable, that the amount of ploughing to be done was as represented, and that it be free from black alkali and sourness.

The difficulty presented was that such a warranty would simply increase the cost of the property purchased by the amount which the vendor would add to insure the absence of these undesirable conditions. The soldier settler is a party to the transaction and no stock or land will be purchased without his consent. If such a warranty is desired in a particular case he may require that the Settlement Board insist on it before purchasing.

Recommendation of Commission

None.

Suggestion by ex-service men

That the age limit for those who may take advantage of the Act be extended. (Halifax 325.)

The practice now is that those who have not had previous agricultural experience will not be granted loans if they are over forty-five years of age. (Halifax 326-327.) As a matter of fact, the age limit in practice is regarded as forty years. There is no age limit in the Act.

Recommendation of Commission

The Commission considers that age qualification should not be the subject of any hard and fast regulation, but that the general practice of limiting the benefits of the Act to those under forty-five years of age affords a good working rule.

Suggestion by ex-service men

Payment of taxes

That the Board should pay taxes on any lands which have been given up by the soldier settler and salvaged by the Board. (Winnipeg 469).

The hardship aimed at by this suggestion arises when the Settlement Board, in the right of the Crown, repossesses lands from a soldier settler in default. On account of the Crown's Immunity from taxation, an additional burden thus falls on the other residents of the locality. Not infrequently the lands are those which had, previously to their occupation by the soldier settler, been under cultivation and depended on by the local authorities for taxes. The case was put as follows:—

> "There are 50 settlers go into this Municipality and take up land; they have roads graded, schools erected, and other improvements made; then half of them leave the land, and the burden for the roads and schools falls upon those who are left . . . . We farmers have to contribute our share of the taxes on the abandoned sections or quarter-sections." (Winnipeg 470).

The Settlement Board pays the taxes up to the time when they re-take possession from the settler, but after that time no taxes are payable. In 1922, on account of the consolidation of interest, etc., resulting from the recommendation of the Parliamentary Committee, all arrears of taxes were paid up (472). As a matter of law, if the taxes had not been paid up while the land was in the possession of the settler, the lands would, on repossession, revest in the Settlement Board free of any lien or claim for taxes. (Section 22 (3), Chap. 71, 1919). The Board contends that the taxes on lands held by it are more promptly and more fully paid up than the average of civilian-held lands. (Winnipeg 472).

The question was discussed before the 1922 Parliamentary Committee (Parliamentary Committee Proceedings 1922, P. XXXVII) and arises from an application of a well-established constitutional principle. The Commission can do nothing more than make the contention a matter of record. There is no doubt that in municipalities where a large number of farms have been repossessed a great burden falls on the other property, but the remedy can only be through representations with a view to securing the consent of the Crown authorities to making these lands an exception to the general rule, possibly by consenting (with an express reservation of the general principle of exemption) to allowing the taxes or some proportion thereof to be considered a first charge on the proceeds of a re-sale, particularly in a case where the re-sale produces a surplus over the amount owing to the Settlement Board.

Recommendation of Commission

None.

Suggestion by ex-service men

Postponing standard date of payment

That the standard date for payment of instalments be December 1st instead of October 1st. (Winnipeg 474-8).

The contention is that the soldier settler is generally the last to have his grain threshed and that he does not realize on his crop in time to make his payment on October 1st. The answer is that there are at least some cases in which payments can be made on October 1st and that the standard date should be the time of the earliest possible payment rather than the latest, in order to ensure that the crop proceeds are directly and immediately devoted to payment of instalments due to the Board. It is pointed out that no interest is charged if payments are made on or before December 1st. The reply is made that this

provision as to exemption from interest is not a matter of standard regulation but is an instruction issued from year to year.

The Commission considers that the standard date as now fixed, with a period of grace not exceeding two months, without interest, to be granted in all cases where it has not been reasonably possible to make payment on the standard date, affords due consideration to the settler.

Recommendation of Commission

None.

Suggestion by Ex-Service Men.

Allowances for clearing on Dominion lands

That on Homestead lands or soldier grants the Board should break at least 50 acres for each settler or should make a special allowance up to $500 for breaking. (Winnipeg 458-465; Vancouver 401.)

The practice is that the maximum loan in addition to the loan for the land is $1,000 for improvements which cover buildings, and $2,000 for stock and implements. (Winnipeg 460.) A man is granted a breaking loan very frequently out of the $1,000, i.e., the total $3,000 is treated as fluid. The amount generally allowed for breaking is $5 per acre and it was pointed out that on homestead lands this would not cover the cost (459).

The suggestion was that a further $500 be provided, making the maximum possible loan $3,500 instead of $3,000.

While it was argued that the settler would be much better off with 50 acres of broken land, it was replied that this was more than was necessary for him in the early stages on which to grow feed for his stock (463), and that 25 acres was all that was needed for that purpose. The aim of the Board was to have settlers go slowly in clearing so that they might take on this work themselves and thus get the direct benefit of the cash outlay instead of attempting a large clearing operation and having the cash go to others (465). The idea is to have the settler proceed gradually with his clearing and augment his farm revenue by labour elsewhere at those seasons of the year when labour is in demand and his earnings will be proportionately great. It was suggested at the hearing that if the settler had a large breaking proposition and wanted to be assured that sufficient cash would be forthcoming from the Board for that purpose the sum of $500 might be specifically car-marked out of the $3,000 combined improvement and stock and equipment loan. Even if that were done the policy of the Board would not permit of the whole $500 being utilized for breaking the first year. (Winnipeg 465.)

The provision for clearing land and disposal of timber and wood on farm lands is shown in the Halifax evidence (345).

The Commission considers that no general rule can be laid down. Each case must be determined on its merits having regard to the man and the conditions and prospects of the particular farm.

Recommendation of Commission.

None.

Suggestion by Ex-Service Men.

Drainage loans

That the Soldier Settlement Board take the initiative in promoting the establishment by the proper authorities of drainage districts where co-operative drainage is needed. (Winnipeg, 488-490.)

The case put was a local condition in the Hudson Bay and Howardville districts where the settlers were troubled with floods every year. The problem was one of conflicting jurisdictions. Action was not taken by the Provincial

authorities on the ground that an Indian Reserve was affected, and the Federal authorities took the ground that drainage was a local and provincial matter. (Winnipeg 488-9.)

The Settlement Act deals generally with individual farms and not with community settlements. Once the Settlement Board has purchased the land for the settler it is obviously to its interest to initiate and promote any project which will improve the property. The point made was that the average settler was not sufficiently familiar with regulations to know how to take the first steps toward getting co-operative drainage (489). The evidence is that in the case referred to the Settlement Board had taken the initiative and pressed the claims of the locality (488-9) and that the Indian Department had early in 1923 agreed to advance $300,000.

Recommendation of Commission.

None.

Suggestion by Ex-Service Men.

Transfer of settlers from unsuitable lands

That the Board give to settlers another opportunity of borrowing where the lands on which they have originally settled have proved unsuitable. (Winnipeg 484-8.)

There is no express provision in the Act preventing the Soldier Settlement Board from making a second loan to a settler who has been salvaged. It is the practice not to do so, however, although the Board has, in special cases, transferred a settler from one farm to another and in cases of illness has taken a farm back and on recovery has given the settler another loan (Winnipeg 485). The evidence at Calgary showed that in very special cases this had also been done in Alberta (259). These are called transferred loans however. An Order-in-Council is required before making a second loan to the same settler on a different farm.

The whole consideration is how far the Board can or should go in determining or agreeing that the present holding is unsuitable. So much depends upon the determination and efficiency of the settler himself. The fact that the venture is unsuccessful does not necessarily prove that the farm is unsuitable. Where one settler by hard work and thrift makes progress under conditions which are far from ideal, it would not be fair to grant a new loan to his neighbour who because of less industry and application has allowed the conditions to master him. It must be remembered that the settler had an active part in selecting the land and that the Board purchased the land for him and at his request. If the settler who contributes his ill-success wholly to the condition of the land is to be reinstated on a new location, it follows that those settlers who have stuck to just as difficult propositions and who are showing evidence of permanent success should be entitled to even greater consideration.

Recommendation of Commission.

None, in view of the present regulations.

Suggestion by Ex-Service Men.

Provincial settlers—Merville and Lister Camp (Creston), B.C.

(a) That all settlers under provincial arrangements at Merville, Vancouver island, and Lister Camp (Creston), in the Kootenay Valley, B.C., should be taken over by the Soldier Settlement Board; (b) That the Soldier Settlement Board consider favourably applications of those settlers who have left the above districts on account of the unsuitability of provincial arrangements. (Vancouver 440-460.)

This matter was the subject of discussion before the 1922 Parliamentary Committee (See Committee Proceedings, p 394, and Committee Report, p. XXXVII). The above report recommended that an official of the Settlement Board be authorized to investigate the conditions with a view to having the settlers brought, if possible, under the jurisdiction of the Board. The claim is that in 1919, before the Federal organization was fully completed, some 600 ex-service men were desirous of taking up land in British Columbia on the principle of organized communities. Representatives of these men came to Ottawa and the Federal authorities, it is claimed, endorsed certain plans which were presented whereby the Province of British Columbia brought into existence a land clearing organization and carried out the initial development. The statement is made that the understanding was that the Federal government would take over the work and complete it when the Provincial authorities had reached their limit of financial strength (1922 Parliamentary Committee Proceedings, p. 393-4). If this statement were correct, there can of course be no doubt as to the course to be followed.

Pursuant to the recommendation of the Parliamentary Committee, Mr. Maber, a representative of the Settlement Board, made an investigation and report which is set out in the Vancouver evidence (441). The report is dated December 27th, 1922, and the following is an extract therefrom:

> "It is doubtful, however, that the Board could depart from its general policy of settling returned soldiers on lands ready to farm, and participate in land clearing or irrigation projects. Even were a departure made by the Board from this policy in the case of the Merville and Lister settlements, it is difficult to see in what way the Board could, at this stage materially help the settlers any better than the assistance being afforded by the local government. Buildings have already been provided; many advances for equipment, live stock, poultry, etc., have already been made where the Government in its opinion, considered it justified. The most of the holdings are not yet in shape to require or justify the loan of the stock and equipment advances such as the Board could make in the ordinary cases."

Apparently, even if these settlers were taken over by the Settlement Board, the only advantage would be a lower rate of interest and whatever improvement in administration might be afforded by the Settlement Board organization. The project, as appears from the report of Mr. Maber, is quite outside the usual operation of the Settlement Board. As he puts it, "It is a land clearing and irrigation project rather than a farm settlement scheme."

Since the hearing at Vancouver, further representations have been made to the Commission setting out the position in detail and proposing assistance in clearing land by way of a special loan, not to exceed $150.00 per acre. The following letter furnishes particulars which are, as far as the Commission is advised, not a matter of record elsewhere.

The Secty.,
Royal Commission on Pensions,
The Senate, Ottawa.

"B.C., April 4th, 1923.

SIR.—In answer to your letter of March 7th, 1923. The Merville Soldier Settlement consists of some 15,000 acres of logged off lands occupied at present by 110 men, 75 per cent of whom are married. The scheme is under the control of the Prov. Govt's Land Settlement Board who commenced operations in this locality in the spring of 1919. The intention was to clear 10 acres in each holding which consisted on the

average of 50 acres, rough clear between the stumps, another 10 acres, build a small house, fence the cleared portion, advance by way of loan to the settler, stock, implements and necessary material so that he would have a fair start towards becoming independent. Donkey engines and motor power were used at the commencement and a good start was made towards the objective, some twenty farms being put more or less in the condition as originally intended. Owing to faulty methods of supervision, political interference, and large overhead expenses the scheme broke down and settlers were all placed after fifteen months on their holdings and told they would be advanced a progress loan to enable them to develop the farm individually. This went on smoothly for another year, but the Prov. Govt., evidently were not enthusiastic over their plan and gradually withdrew their support, which up to the present has been very spasmodic and causing a great deal of dissatisfaction among the settlers, no one knowing just where he stood in regard to obtaining assistance. The Prov. Govt. recognizing that the debts piled up against the farms are such that it is impossible for any man to repay them in a reasonable time, have now in agreement with the settlers appointed three local farmers of ability and experience to revalue all the holdings, and all that they contain, both sides to abide by their decision.

In view of the fact that none of the 110 farms can support their prospective owners for some considerable time yet, and that owing to the great number of men requiring work and wages in one locality, it is impossible for more than a very few to obtain employment in the vicinity (there are some score of S.S.B. settlers adjoining us) and that owing to the natural conditions of our land if any progress is to be made towards development a man must be enabled to spend the greater part of the year working on his farm.

We submit that providing the Dom. Govt. or the Dom. Prov. Govts. combined, would adopt the scheme as here outlined, not only would the serious situation which now exists in the settlement be solved, but a way opened up for settling vast areas of otherwise waste land by contented men of the best type, who, however, enthusiastic at the commencement of their undertaking in time get disheartened by the enormous natural difficulties of placing the timbered acres in B.C. in this method of acquiring a farm.

We submit the following scheme for land clearing and at the same time providing a man with wages and keeping him in the vicinity of his farm. To obtain the services of H. M. Fraser and his 75 H.P. tractor for stump pulling, piling the stumps and breaking the land. A loan to be advanced the settler at the rate of $150.00 for the acre cleared.

The work to be done by contract.

The amount of land to be cleared and its locality to be decided upon by the settler and the Govt. representative. The proposition is that the settler would clear away himself windfalls and debris among the stumps..... $ 10.00
Stump blasting per acre..... 30.00
Stump pulling and piling per acre with tractor 75.00
burning..... 10.00
levelling and breaking..... 15.00
Clearing of rocks, etc., and putting in shape for cultivation .. 10.00

$ 150.00

H. M. Fraser is well known and has handled large contracts for the Prov. Govt. He has looked over the Merville area and is satisfied his tractor can manage the work. He has placed the figures for tractor work at the outside cost, this to be governed by the amount of work available. the tractor to clear not less than one acre on each holding the cost of moving the outfit including wages is $1.00 per mile.

We beg to point out that this district has been proved as an ideal locality for the raising of small fruits, poultry and dairying: we refer you to the Prov. Horticulturist, Mr. White, who pronounced the strawberry crop of a Merville settler to be the best one inspected at a certain stage, of any in B.C. for the season 1922.

There are some 40,000 acres of similar logged off lands adjacent to Merville, which if settlers are given a little help and encouragement to clear would be quickly populated. Through all their discouragements the Merville settlers have stuck it out for they have faith in the district and what it can produce.

Merville is situated eight miles from the railway and connected to it by the Macadamed Island Highway, the markets are excellent. The Comox Creamery, a co-operative concern, handles the chief varieties of farm produce; the projected extension of the E. & N. Railway would serve the adjacent logged off lands to which we refer.

We can do no more than leave this proposal in your hands, knowing that it will receive your serious consideration. We shall be only too pleased to meet any commission of inquiry you may appoint to go into further details of the matter with you.

Yours truly,

(Sgd.) R. G. KER,

Secy. Merville Com. Assn."

That there is a complication on account of the settlement being at present under Provincial auspices, is apparent. According to this letter the Provincial Authorities have taken an important step for the benefit of the settlers in connection with a revaluation of the land. There is in this statement no claim as to any undertaking on the part of the Federal authorities, but there is to be considered the circumstance that these men are ex-service men who have undertaken a Canadian settlement proposition which has taxed severely their application, industry, and perseverance. The fact that they have stuck to it in spite of extremely discouraging conditions is a very genuine indication of their faith in the eventual possibilities. The "stake" which they have in the property by their hard work should furnish considerable of their continued endeavour to make the venture a success ultimately. Whether it would be feasible for the Federal authorities to intervene, with some assistance toward clearing land, and if so what arrangement could be made with the Province, which it is understood holds a first charge on the land, so that reasonable security would be made available to cover the suggested advances on any part thereof, and what are the actual chances of success, are all matters as to which the Commission has no information.

A proposition which really involves taking over a number of settlers en bloc, does not come within the Soldier Settlement Act, which deals primarily, with individuals. The Soldier Settlement Board would however, be the best agency through which to afford special assistance if such could be given. Any relief can only come as the result of investigation and conference at first hand with the settlers and the Public Authorities concerned. The Commission submits the case with the supporting statements and is of the opinion that the situation merits further consideration with the object of verifying the claim

that there was an undertaking by the Federal authorities to assume certain responsibilities, and also to ascertain whether some action in the nature of the special assistance suggested may be feasible or warranted under the peculiar and exceptional circumstances.

Recommendation of Commission

Further consideration as above.

Suggestion by ex-service men

Settlers on Nicoamen Island, B.C.

That settlers on Nicoamen Island (50 miles East of Vancouver) be given an opportunity to take up other lands. (Vancouver 438).

This is another case which was brought to the attention of the 1922 Parliamentary Committee (Report 1922 Parliamentary Committee, p. XXXVI). The recommendation was that on sympathetic grounds the settlers be given an opportunity of establishing themselves on other lands, if they so wished, and further, that, in the event of the lands being again flooded, leniency be shown in the matter of payments.

The locality is one in which there is very rich land but which is constantly threatened with flooding by the Fraser River. The Settlers located there in the expectation that the dikes would be improved and the water kept out. The land is stated to be the best to be found in British Columbia. The settlement began in the spring of 1919. The lands were flooded in the summers of 1920, 1921 and considerably in 1922. (Vancouver 438-9). An $80,000 expenditure was made but it was estimated that it would require another $250,000, and the Provincial and Federal Governments were, for reasons of jurisdiction which they considered sufficient, unable to give the necessary assistance (Vancouver 439).

It is understood that during the past year, owing to representations made by Local authorities and by the Soldier Settlement Board, the Federal and Provincial Departments of Public Works in conjunction have commenced certain dike repair work which, it is suggested will probably solve the difficulties of the settlers.

Recommendation of Commission

The Commission considers that if the diking facilities prove insufficient, the circumstances in connection with this unfortunate venture by the settlers in that locality might properly be considered by the Settlement Board as coming within the class of extraordinary cases for which provision should be made by granting a second loan.

Suggestion by ex-service men

Local fire insurance companies

That the Settlement Board should accept policies in Mutual Fire Insurance Companies thus reducing the cost of insurance to the settlers. (Vancouver 437, 460).

The reason given for refusing policies in the local mutual companies was the failure, in some parts of Canada, of companies similarly organized which circumstance was considered by the Board as justifying its declining to jeopardize the interests of the soldier settler and of the State by the acceptance of policies in these companies. It is understood that the action of the Board in a matter of this kind is based on the opinion of the Superintendent of Insurance.

SESSIONAL PAPER No. 203

Recommendation of Commission

The Commission considers that this is a matter as to which the opinion and advice of the Superintendent of Insurance should be followed.

Suggestion by ex-service men

Assistance to cattle industry

That salvaged lands be used for the purpose of cattle ranching. (Winnipeg 492).

Certain land between Lake Winnipeg and Lake Manitoba was referred to as being suitable for ranching and it was suggested that such of this land as had been salvaged be used by the Settlement Board for that purpose. It was pointed out at the hearing that it would require much more than a half section if the project of a cattle and dairy business were to be successfully operated. (Winnipeg 492). The project was not discussed in any detail.

The Commission considers that the matter is one entirely for decision by the officials of the Settlement Board who know the locality and possibilities.

Recommendation of Commission

None.

Suggestion by ex-service men

Small holdings for reasonably fit men

That the soldier Settlement Act be amended to permit of purchasing plots of less than 5 acres suitable for market gardening and similar agricultural pursuits requiring comparatively small acreage. (Halifax 331; Toronto 1832, 1841; Winnipeg 448; Vancouver 393).

The proposals along this line took several different forms and in some instances failed to distinguish between what the Commission considers are radically different projects, viz.; (a) Small holdings to be operated by intensive cultivation by physically fit men, such holdings to afford an exclusive occupation; (b) Small plots of ground to be operated by men partially disabled by war service, the revenue from which would be supplementary to pension and which, without the addition of pension, would be insufficient to ensure a living (these will be discussed under the next following proposal); (c) Small holdings near towns, which holdings would be simply sufficient for an artisan working at his trade to supplement provision for his family by raising a certain amount of garden truck, and on which poultry, etc., might be kept (these should properly be dealt with as Suburban Housing rather than as a Settlement or development project); (d) The provision of a house, and possible a small lot of land apurtenant, for the benefit of disabled or partially disabled men, particular reference being made to tubercular men (this also is more distinctly a Housing rather than a Settlement scheme).

As has been said, the underlying principle of the Soldier Settlement Act has to do primarily with settlement and land development rather than with re-establishment. Project (a) above means simply that the plot of land to be worked is to be reduced in size with a corresponding intensification of operation. This idea was stressed particularly at Vancouver.

It was pointed out that a large percentage of men, whose physical capacity had been affected to some extent by war service, had received Vocational Training under the D.S.C.R. in agricultural pursuits, but that of these a comparatively small number had been accepted by the Settlement Board as fit to carry on under the Act. It was stated that of 539 men vocationally trained in agriculture, only 97 were placed by the Settlement Board, most of the remainder being regarded as unsuitable generally because of physical disabilities (Vancouver 393). These cases constituted for a time what were regarded as

serious problems, and after this had been pointed out, closer co-ordination was achieved between the D.S.C.R. and the Settlement Board, so that men could know, with some reasonable certainty, as to whether, on the termination of their vocational training course, they would be regarded as eligible as Soldier Settlers (Vancouver 394).

It was pointed out that the Soldier Settlement Act was a declaration primarily of a national land policy, the benefits being open to those who could qualify with agricultural experience, physical fitness and some financial ability. This left unprovided for a large number of men who felt that they could carry on successfully in agricultural pursuits on a small area of ground in such occupations as market gardening, poultry farming, small fruit farming, tree fruit farming, intensive dairying, bee keeping. The possibilities of men not physically strong successfully engaging in these pursuits has apparently been the subject of a great deal of discussion, and these occupations have been regarded by the men themselves as having considerable attraction.

Evidence before the Commission leads to the conclusion that the cases are very exceptional in which those who are not at least reasonably fit can hope to engage in any of these lines of work with commercial success. The restriction of the area of operation demands increased application and most thorough knowledge of the business in hand. The fact that a man had had some experience in mixed farming was not regarded by the Settlement Board as justifying his embarking in some of these more technical occupations without at least a year's experience with some one who had made a success of the business (Vancouver 395 and 464; Winnipeg 450. As was said at Winnipeg, "In order to make a success of a small holding a man has to know his trade thoroughly and he must hustle from dawn till dark". (Winnipeg 454).

A Committee consisting of a representative of the Settlement Board and an official from Ottawa made a survey of the situation in British Columbia and their conclusions are found on pages 454 to 457 of the Vancouver evidence. One of the conclusions was

> "That the growing and marketing of small fruits is an exacting business and requires a special knowledge of fruit culture and market conditions".

And again that

> "Successful poultry farming involves the greatest care, patience, knowledge of the work, long hours all the year around and strictest attention to minute details. To use the words of a practical successful Danish poultryman, who had built up from a small flock:—'You must like your work; know it from A to Z; have patience, work constantly and neglect not the least thing, for a little slip may mean the loss of a whole year's profits".

And again for dairy farming

> "That most farmers regard 20 acres of good bottom land or its equivalent as the minimum on which one should attempt dairy farming ....that in very exceptional cases dairy farming can be carried on successfully on 10 acres of cleared bottom land—this implies first-class men, the best of land and high producing cows".

This report went into considerably more detail and is, the Commission believes, entitled to careful consideration. It was concurred in by a prominent resident of British Columbia who had twenty-five years' experience and who states:—

> "I consider it gives a fairly accurate idea of small farming as built up and carried on. I fully agree with the findings of the Committe

based upon the evidence submitted. My personal experience of twenty-five years here leads me to a similar conclusion. I would emphasize two things in connection with small or specialised farming –first, the man, second, the quality and location of the land". (Vancouver 457).

As to market gardening, a statement was made by the representative of the Settlement Board at Winnipeg who said that what had given rise to the idea that the Soldier Settlement Board was opposed to small holdings was

> "That it is so difficult to find a man who is proficient. A man who has only had experience with a back-door garden is not qualified for market gardening. It is very intensive and you must be prepared to find your market in the city and to find people who will trust you." (Winnipeg 451.)

Speaking generally of the possibilities of successfully operating small holdings, this same representative said: (450)

> "Our view is that small holdings are perfectly feasible, provided you have two things. One is a man who is thoroughly experienced in the work of small holdings farming which he wishes to pursue. The second thing is the market. It is idle to put a man on a small holding unless he has a good market."

When asked how long a man should have experience in either bee keeping or poultry-raising, he said:—

> "We do not lay down any hard and fast rule. He must have followed that line of farming before the war or since the war to an extent that might be called successful."

When asked what period he considered necessary, he said:—

> "Probably not less than two or three (years), or preferably more than that . . . . . If a man has been employed say with a market gardener who can say that the man has worked successfully with him . ." (Winnipeg 450.)

He says further:—

> "In the first place we discourage the average man who takes small holdings to us because, as I say, about 50 per cent of the men who have had some agricultural experience and do not know what they can do, would like to try a small holding because it sounds pleasant. You have to discourage them in order to sift out the men who have a real proposition in view and who have had real experience." (Winnipeg 453.)

It was intimated that around Winnipeg there were 17 men who had small plots of ground, as to 11 of whom there was very little reason to doubt that they were probably succeeding. Of these, one was a TB man who was getting 100 per cent pension and another was a blind man.

In Vancouver some figures were given showing the financial success of some men who had engaged in small fruit farming. The witness did not know whether any of these men were returned soldiers, but did not think so (397-8). It was said that this statement showed that the average returns per acre for 5 men for 5 years were $1,158. This was without making any allowance for labour. Some evidence was given, however, by the representative of the Soldier Settlement Board at Vancouver tending to show that the revenue from small fruit farming, in an instance which he quoted where exact records had been kept, showed for the first two years, in strawberry production, a yearly profit of $371.75 per acre. (Vancouver 457.)

It was pointed out in Vancouver that of all those settled under the Soldier Settlement Act, the poultrymen led in the percentage of those who had made payments, the figure being that 83·6 per cent of poultrymen had paid in full or on account, whereas the average, taking all agricultural occupations, was only 66 per cent (Vancouver 436).

The above detail is given in order to indicate the increased difficulties which may be anticipated in carrying out successfully agricultural work on small holdings. The evidence shows that these difficulties are not insurmountable, and the Commission considers that, particularly in British Columbia, there is considerable opportunity for operating small holdings successfully.

Recommendation of Commission.

The opinion of the Commission is that small holdings can not be successfully operated except in selected localities and by specially trained, industrious and reasonably fit men. The question as to whether the Act shall be extended to include plots of less than 5 acres for such purposes is a matter of general policy depending in part on whether the operation of the Soldier Settlement Act to date warrants further activity along these lines.

Suggestion by Ex-Service Men.

Small holdings for seriously disabled men

That the Soldier Settlement Act be extended to permit of the acquiring of holdings of less than 5 acres by men with substantial disabilities with the idea of supplementing pension and providing occupation to the extent to which it is possible for them to work. (Halifax 331; Vancouver 396.)

The problem of finding suitable occupation in which partially disabled men may engage for the purpose of utilising their remaining percentage of working capacity is probably one of the most difficult in the whole programme of re-establishment. One of the attempted solutions has been the establishment of Veteraft Shops and the provision of Sheltered Employment in Government-aided industries. The proposal now made cannot be differentiated from the provision for Sheltered Employment for men in urban centres. The only distinction is that the employment on small holdings is out of doors. There was frequently presented to the Commission the possibility of partially disabled men engaging in market gardening, bee keeping, poultry farming and small fruit farming and it was very often assumed that all that was necessary was to provide a small plot of land for the soldier, and the problem of part time employment would be solved by his engaging in an occupation which seemed to offer considerable attraction. It was suggested that such an occupation was peculiarly suitable for men injured and incapable of hard work, and that the pension of men who were weak, gassed and incapable of heavy lifting could be supplemented by their keeping a cow, pigs, hens, and having a little garden and doing light work. (Halifax 331 and 332.)

The same idea was expressed at Winnipeg where it was suggested that men whose lives before the war had been devoted to agriculture, stock-raising or dairying but who had become injured through war service might operate three or more acres in poultry raising, bee keeping or gardening, or in any other work of this nature (Winnipeg 448). This was suggested as a means of permanently re-establishing men not physically fit for Soldier Settlement (Winnipeg 449), and it was further urged that such provision would assist disabled men who have a pension and would go a long way in helping to carry them through (Winnipeg 458). The same idea was expressed at Toronto (Toronto 1832).

The views of residents of the Okanagan Valley, to the effect that opportunity was afforded there for men with asthmatic tendencies to engage in the small fruit industry, were also put forward (Vancouver 396).

Sufficient has been said under the next preceding suggestion to indicate the conviction of the Commission that the operation of a small holding cannot hope to be commercially successful unless the man is equipped both occupationally and physically to give the project his undivided attention. There may be those who are partially disabled but whose experience will be considered by the Soldier Settlement Board as being sufficient to offset physical handicap. These would properly come within the class previously discussed. Outside of these, the Commission considers it would be out of the question to expect the successful operation of a small holding, and if the proposition is not *prima facie* sound commercially, it is not one which properly comes within the spirit of the Soldier Settlement Act. In other words, it is not a settlement or development project but purely a re-establishment measure. It is simply the creation of artificial employment and the subsidizing, in the most expensive way, of an occupation which has no sound commercial foundation. If the man's health is sufficiently good to permit the venture being a commercial success then he is provided for by the next previous recommendation, but if he is physically handicapped to such a degree as to make this impractical then the provision of a small holding means nothing less than the State investing in a separate open air Veteraft Shop for each individual applicant.

The Commission is acutely conscious of the need of such men but no feasible proposition has been put forward which would overcome the obvious impracticability of the country deliberately investing in individual holdings under these circumstances.

The Commission thinks that one possible solution may be the establishment of Soldiers' Homes (to be discussed in the Final Report) with sufficient land to provide employment for these men in such outdoor activities as are within their capabilities. Such institutions might bear, to ex-soldiers in rural localities, the same relation as Veteraft Shops to ex-soldiers in the cities.

Recommendation of Commission

None.

Suggestion by Ex-Service Men

Service to count whether entry is before or after date of enlistment

That military service is to count as residence on homestead and pre emption entries regardless of whether the entry has been made before or after date of enlistment. (Regina 197 205; Calgary 293).

Under the Dominion Lands Act (Chapter 20, 1908, Section 22) it is provided that

> ".....the time during which an entrant is absent from his homestead while he is a member of a military force enrolled.....in the defence of the British Empire against a foreign power, or is a member of a company or contingent of Canadian Volunteers enrolled under the authority of the Minister of Militia for active service and also for a period not exceeding three months after his discharge.....may be counted as residence upon his homestead....."

The interpretation given to this section is that the residence does not count if the entrant was, at the time of filing, actually enlisted for military service. The point raised is that there is apparently no logical reason why a man who filed a week before enlistment should have his total military service count as residence, whereas a man who filed a week after enlistment should not get any

credit at all for the time spent on such service. The reason given for this construction of the Act is that, if it were otherwise, it would mean that every soldier who served three years and had a minimum of cultivation done either by himself or some one else would, in effect, get a free grant of land, that is to say, he could virtually get a homestead and never see the property although the obvious reason for providing these homesteads was that the country should be settled and developed. There were, no doubt, those who applied for homesteads in deliberate contemplation of enlistment, and thus succeeded in getting the benefit which is denied to those who are putting forward this remedial proposal. But such a situation is almost bound to happen in connection with the interpretation of any statute and the only way to completely prevent possible exploitation would have been to amend the Statute so that the exemption from residence duties to men on military service would only count in respect of those who had secured entry a considerable period before enlistment and who had carried out certain development work. The fact that this was not done has, no doubt, worked out for the benefit of a number who applied just previous to enlistment, but the Commission does not consider that this justifies its extension still further. The adoption of the suggestion made would not benefit the real soldier settler, but would only permit those who had their entries cancelled by reason of non-residence to now press their claim on the Department and demand patent for the quarter section originally held or, if the same had been disposed of, some other quarter section in lieu thereof. It is obvious that if the entrant had been a *bona fide* settler the residence duties would have been done by this time, and a provision that he could come in now and obtain the same rights as had been earned by the hard work of his comrades who stuck to the land, would, the Commission feels, give rise to unfair discrimination and justifiable dissatisfaction.

There are, no doubt, some who, notwithstanding they did not get credit for their military service, have stayed on the land at least a portion of the time and are gradually working out their actual residence duties. These would, of course, be benefited in the sense that they would immediately get a patent, if the suggestion made were adopted; but, in an attempt to benefit these, the class already spoken of with no meritorious claim would automatically be let in. The Commission is convinced that no settler, giving any reasonable evidence of good faith and intention to settle, would have his entry cancelled by reason of not having completed his residence duties in the required time or to the extent prescribed each year and if this is so, having in view the object of the Act, the Commission considers that the only class whose claim has some merit is taken care of.

Recommendation of Commission

None.

Suggestion by ex-service men

Refund to ex-service of fees paid on pre-emption

That in the event of a soldier not having had a soldier grant and where he has, subsequent to enlistment, paid pre-emption or purchased homestead fees, he be permitted to convert his pre-emption into a soldier grant and that the fees so paid be remitted.

The rights to Dominion Lands include at least three different classes of entry:—

(a) Homesteads, of 160 acres, available to every one, and subject to six months residence in each year for three years and to a certain amount of cultivation;

(b) Pre-emptions, of 160 acres, subject to payment of $3.00 per acre, and to residence and cultivation duties similar to a homestead. Pre-emptions only obtained in certain districts and were abolished on March 16, 1918;

(c) Soldier grants, free grants of 160 acres to soldiers, subject to residence and cultivation duties similar to homestead. These grants were first created on May 14, 1918.

Under the Soldier Settlement Act 1917 every eligible soldier settler was entitled to make a Soldier grant entry. By the Soldier Settlement Act July 7, 1919, a limitation was imposed and a man was shut out from obtaining a soldier grant if he held a homestead and pre-emption, unless these holdings were not sufficient to make a good average farm for the district. Settlers were, however, permitted to convert pre-emptions already held into soldier grants, and thus secure immunity from future payment, if not paid up, and a refund of any moneys already paid on account of the pre-emption. A further restriction was made on December 13, 1921, when written instructions were issued by the Department of the Interior to the effect that no conversion of a pre-emption into a soldier grant was to be allowed unless the pre-emption was paid up (Regina 192). It is understood that the Department has not strictly adhered to this regulation and that conversions have been permitted in certain cases, the position, generally speaking, being that while conversion would still be permitted as to pre-emptions unpaid on July 7, 1919, the same considerations did not apply to pre-emptions paid up previous to that date, the amendment to the Soldiers' Settlement Act having altered the situation. Probably the strictly logical way to deal with the matter would be to lay down a general policy under which, in connection with pre-emptions not fully paid on July 7, 1919, the conversion would be permitted and a refund made; and, as to those which had on that date been paid, to issue to the soldier an attestation certificate and permit him even now to take up a soldier grant. There is this to be said, however, that to permit a man now holding a homestead, and a pre-emption, to take up an additional 160 acre soldier grant, would be in most cases a doubtful privilege because of the probability that there would be no suitable vacant land available in the vicinity. The Department of the Interior naturally want to be assured that genuine settlement has taken place and the Settlement Board is in a position to obtain and give definite information on this point.

Recommendation of Commission

The Commission considers that in order to provide as far as possible for uniform treatment and to encourage the bona fide soldier settler it would be advisable to allow conversion in all cases where a soldier has not had a soldier grant and where he has, subsequent to enlistment, paid pre-emption or purchased homestead fees, but that, in order to insure that this privilege is being given those whom the Country particularly desires to encourage, such conversion be allowed, as to cases prior to July 7th, 1919, only where the Settlement Board certifies that the settler is actually in occupation and satisfactorily using the land which it is now proposed to convert, and that in all cases of conversion as above the fees paid in connection with the pre-emption be remitted.

Suggestion by ex-service men

Military service to count on soldier grant

That in the case of a conversion of a pre-emption into a soldier grant military service should count on the soldier grant to the same extent as it would have counted on the pre-emption. (Regina 204; Calgary 272).

Military service counts as residence in the case of a pre-emption but does not count in case of a soldier grant. The claim is that, since the pre-empted land is by a fiction turned into a soldier grant in order to escape acreage fees, it should also carry with it the homestead privilege of counting military service as residence.

The general considerations which have been discussed in connection with the proposal respecting military service where the entry is after enlistment apply here. To virtually exempt soldier grants from residence duties by counting military service in lieu thereof would be to revive a claim for soldier grant by men whose entries have been cancelled by reason of failure to perform residence duties and who by that very circumstance indicated that they were not those for whom the privilege of soldier grant was created.

There are instances in which soldiers on account of physical unfitness are unable to fulfil the residence duties, but these have been provided for by Order-in-Council P.C. 1471 dated May 23, 1921, whereby, on payment of $1.00 per acre, patent may issue notwithstanding residence duties may not have been done.

Recommendation of Commission

None.

Suggestion by ex-service men

Field supervisors to receive proof of duties

That any field supervisor of the Soldier Settlement Board be empowered to receive from ex-service men, proof of duties leading to patent.

It was represented to the Commission that the Soldier settler in some cases was delayed in filing his proof of duties because of having to await the attendance of the Homestead Inspector (Regina 195).

The matter is largely one of qualification and while it is quite possible that the Field Supervisor of the Settlement Board would in most cases be competent, at the same time unless there is some real hardship it would seem inadvisable to inaugurate a system whereby the regular duties of Homestead Inspector would be usurped by another official who is not necessarily familiar with the requirements.

Recommendation of Commission

None.

Suggestion by Ex-Service Men

Time in hospital to count as residence

That time spent by a soldier in hospital on account of war disability should count as residence duties on homesteads taken up before January 1, 1921. (Regina 116).

The Departmental regulations provide that, on submission of necessary documentary proof that any settler is physically unfit to carry out his residence duties, such duties may be waived. On the other hand a man temporarily or intermittently ill is not given exemption from residence duties because it is assumed he will eventually be able to carry them out. An allowance is made for him by extending the time within which residence duties can be done. A man temporarily in hospital from a war disability is drawing pay and allowance, and there is no real hardship in requiring that, after he has recovered his health, he complete his residence. The provision mentioned for men who are permanently physically unfit leaves, the Commission considers, no condition which calls for further remedial regulation.

Recommendation of Commission

None.

Suggestion by Ex-Service Men

Fix definite price for reservations

That a definite price be fixed for the reservations in connection with soldier grant entries in the tracts withdrawn from the Riding Mountain and Porcupine forest reserves. (Winnipeg 466-469).

The settlers have already the right to use these lands, erect improvements and cultivate the same as if legal rights to the property had been acquired. The moment price is fixed and the settlers obtain legal rights, the lands would become subject to taxes to the extent of the settler's interest which would be a further drain upon the settler. In addition to this, there is the point that so long as the price is not fixed no interest is charged. It is understood it is the intention of the Settlement Board to recommend the sale of these lands at a small nominal price as soon as the men become established. Some men may prefer to save annual charges even at the expense of certainty as to the ultimate price. Others may desire to have a definite contract.

Recommendation of Commission

That provision be made so that such of the settlers holding these reserves as desire it, be given definite assurances as to price.

All the above is respectfully submitted.

J. L. RALSTON,
Chairman.

WALTER McKEOWN,
Commissioner.

A. E. DUBUC,
(with reservation below).
Commissioner.

Reservation by Colonel Dubuc as to recommendation contained in the body of the Report, respecting stabilization of Tuberculosis pensions

The present practice of the Pensions Board with regard to T.B. cases clinically active while in sanatorium is:—

(1) If incurred on service and whether the man has served in a theatre of war or not, 100 per cent for 6 months on discharge from sanatorium.

(2) If an exacerbation of a pre-enlistment condition:

(a) If service in a theatre of war, pension 100 per cent for 6 months:

(b) If no service in a theatre of war and, if no exacerbation within 3 months of enlistment, pension 90 per cent (aggravation) for 6 months.

(c) If no service in a theatre of war and, if exacerbation within 3 months of enlistment, pension for aggravation only in accordance with the circumstances of the case.

Colonel Dubuc recommends, in substitution for the recommendation made on the above subject in the body of the report, that in cases (1), (2a) and (2b) above, whatever rate may be awarded by the Pensions Board on discharge from Sanatorium shall continue without deduction for a period of at least two years, provided the symptoms specified in the recommendation contained in the body of the report are found.

FINAL REPORT ON SECOND PART OF INVESTIGATION